

## COUNCIL MEETING

APRIL 20, 2016

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, April 20, 2016 at 8:30 a.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock  
Honorable Gary L. Hooser  
Honorable Ross Kagawa  
Honorable Arryl Kaneshiro (*recused at 3:15 p.m.*)  
Honorable KipuKai Kuali'i  
Honorable JoAnn A. Yukimura  
Honorable Mel Rapozo

### APPROVAL OF AGENDA.

Councilmember Kaneshiro moved for approval of the agenda as circulated, seconded by Councilmember Kuali'i, and unanimously carried.

Council Chair Rapozo:                      Thank you. Next item, please.

### MINUTES of the following meetings of the Council:

February 4, 2016 Special Council Meeting, Council-Manager Form of Government Workshop

March 3, 2016 Special Council Meeting, Council-Manager Form of Government Workshop

March 17, 2016 Special Council Meeting, Council-Manager Form of Government Workshop

Councilmember Kagawa moved to approve the Minutes as circulated, seconded by Councilmember Kuali'i.

Councilmember Yukimura:              Council Chair?

Council Chair Rapozo:                      Yes?

Councilmember Yukimura:              I would like to ask for a deferral. I have not had a chance to review them.

Council Chair Rapozo:                      On all three (3)?

Councilmember Yukimura: Yes, please.

Council Chair Rapozo: Okay. Can we have a motion to defer?

Councilmember Kagawa moved to defer the Minutes, seconded by Councilmember Kualī'i, and unanimously carried.

Council Chair Rapozo: Motion carried.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Next item, please. You are welcome.

CONSENT CALENDAR:

C 2016-96 Communication (03/23/2016) from the Director of Finance, transmitting for Council information, the Condition of the County Treasury Statement quarterly report as of February 5, 2016.

C 2016-97 Communication (04/06/2016) from the Acting County Engineer, transmitting for Council consideration, a Resolution Establishing Crosswalks, Striped Pedestrian Walkways, And Intersection Modifications On Waikomo Road, Kōloa District, County Of Kaua'i, to improve safety for pedestrians and to improve pedestrian connectivity for the immediate residential community to Kōloa Elementary School, businesses, and other destinations in the area.

Council Chair Rapozo: Can I get a motion to receive?

Councilmember Kagawa moved to receive C 2016-96 and C 2016-97 for the record, seconded by Councilmember Kualī'i.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follow:

The motion to receive C 2016-96 and C 2016-97 for the record, was then put and unanimously carried.

Council Chair Rapozo: Motion carried. At this time, if there are no objections, I would like to entertain C 2016-101 and Proposed Draft Bill (No. 2629), relating to smoking in motor vehicles. I would like to take those two (2) items at the start of the agenda. The substance of this Bill is being deliberated on by the State at the Legislature right now, and it looks like it is going to pass in the next couple of

weeks. My suggestion is that we entertain the Bill today, we take the public testimony, and then defer this Bill until May 8<sup>th</sup>, which is two (2) Council Meetings from now, that way we will have an idea of what the State is doing.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Chair, it would be May 18<sup>th</sup>.

Council Chair Rapozo: Oh, May 18<sup>th</sup>? I am sorry, May 18<sup>th</sup>. Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. Do you want to receive the Communication, and then do the discussion on the Bill?

Council Chair Rapozo: Yes.

There being no objections, C 2016-101 and Proposed Draft Bill (No. 2629) were taken out of order.

#### COMMUNICATIONS:

C 2016-101 Communication (04/05/2016) from Councilmember Chock, transmitting for Council consideration, a Proposed Draft Bill to amend Chapter 22, Article 8.2 of the Kaua'i County Code 1987, as amended, by adding a new subsection "(o)," relating to Smoking Prohibited in Certain Areas, to prohibit smoking in any motor vehicle, whenever occupied by a person less than eighteen years of age: Councilmember Chock moved to receive C 2016-101 for the record, seconded by Councilmember Kualii, and unanimously carried.

Council Chair Rapozo: Motion carried. Can you read the Bill, please?

#### BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2629) – A BILL FOR AN ORDINANCE TO AMEND SECTION 22-8.2, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO SMOKING IN A MOTOR VEHICLE

Council Chair Rapozo: We are going to go ahead and suspend the rules and take public testimony at this time if there is no objection with that?

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: Did we have any registered speakers?

Ms. Fountain-Tanigawa: We have no registered speakers.

Council Chair Rapozo: Anyone wishing to testify? Please. The green light will come on, the yellow light will come on when you have thirty (30) seconds left of your first three (3) minutes, and when the red light comes on, that means your time is up. If you could start by stating your name for record, and then you can proceed.

SALLY JO MANEA: Sally Jo Manea. Thank you for hearing testimony this morning, Councilmembers. I have been a Tobacco-Free Kaua'i and Tobacco-Free Hawai'i member for many years. The reason I am here this morning is because I am in favor of passage of this Bill. I do not think that there...I am speaking for the kids because I have had young people come up to me in my years of being an anti-tobacco advocate and say, "My parents smoke in the car when they are dropping me off at school, I do not have any choice about it, and I am just subjected to it. I do not like it, and there is nothing I can do about it." Basically, I am here today speaking for them.

Council Chair Rapozo: Thank you very much.

Ms. Manea: Parents should know better, but some do not.

Council Chair Rapozo: Thank you.

Ms. Manea: *Mahalo*.

Council Chair Rapozo: Next speaker.

VALERIE SAIKI: Hi, my name is Valerie Saiki. I am here on behalf of the Coalition for a Tobacco-Free Hawai'i. I am here in support of this Bill. I made some folders with information for all of the Councilmembers in regards to secondhand smoke, smoking in vehicles, electronic smoking devices, as well as my testimony and a couple other testimonies from children, as well as teenagers and other community members. Over my time of campaigning for this Bill, we have collected over four hundred (400) petitions from adults and a couple hundred from youth under the age of eighteen (18), as well as several handwritten letters from high schoolers that once this Bill comes into Committee, I will submit as well.

Council Chair Rapozo: Thank you. Anyone else?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: We will have some discussion. Councilmember Chock, did you want to address your Bill?

Councilmember Chock: Yes, thank you, Chair. Thank you for the opportunity to share a little bit about this. We have been talking about this with

Valerie and Coalition for a Tobacco-Free Hawai'i about a year not. This is one (1) of the requests that I could support because it has do with health, it has do with our oversight over our roads, and we have some models to look towards in terms of effectiveness. I am happy to also defer it because of that reason, because we were not sure where State Legislature was going to go with this. In these past weeks, the latest look at where they are going is that this might be favorable in terms of passing. For those reasons, rather than creating legislation that would be overseen later, that we defer this at this time to see how it turns out at the State level. If we need to, we can always come back or receive this Bill at a future time. Thank you.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: A question to the introducer. Is the State bill in substance similar or almost the same as the Bill that is before us today, such that if it passes the State Legislature, it will apply Statewide including Kaua'i? Is that the case?

Councilmember Chock: That is correct, and it is almost verbatim in terms of its content.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Any other discussion? Go ahead.

Councilmember Kagawa: Thank you, Chair. Ever since I have started getting testimony, I would say maybe about four (4) or five (5) days ago, I have been trying to do my personal homework. I have tried to notice all of the cars that I see driving, and to be honest, I have seen maybe two (2) cars out of probably thousands where people were smoking, and both of them were riding by themselves, so there was no child in there. As we look to pass a law on Kaua'i that is "county specific" and not applied Statewide, I am wondering if there is any data to support that there is a problem first. I do not believe that we should pass laws when there is no specific data as to whether there is a problem that we need the law to improve the situation. Sure, I can agree that obviously it is a "slam-dunk." Yes, it makes it safer for a child, but my real concern is are we fixing the problem? I think the problem is if smoke from an adult that is going on to a child and is negatively affecting their lives, then when they are smoking at home, then what? Are we going to look into policing that as well? I have some concerns there about the Bill and about the true intent. Are we trying to fix the problem? I think the real solution actually is education, because if we can better educate the parents that smoking anywhere near the premises of a child or a student is harmful and very detrimental to their lives, then that is how you fix the problem. You stop it from happening anywhere near a child, and certainly limiting it to a car is just one (1) little aspect of their lives. I am not sure if the police is ready and able to add that to the list of things that they watch for drivers. They have got to watch cell phones, vehicle registration, safety checks, and whether they are speeding. We are just adding to the list. How effective will the police be or will we

be responding on a complaint basis? Will it be, "Oh, I saw this license plate smoking with this child in the car, please investigate." Do we have the time and resources to effectively make this Bill work? Those are some concerns that I have. If we are going to do something, I feel we should do it right. Let us not put a bill on the books...and it is interesting that the Big Island sent testimony supporting it when they have a dog barking law that they say they do not even enforce. Is that Big Island's style? They put laws on the books, but it is just to scare people off. They do not really enforce it. I do not want to follow that road, if that makes sense. I have some concerns. Nonetheless, I think this is more effective on a statewide basis as smoking is not allowed in the premises of a commercial building. You have to do it outside. It is statewide and everybody knows that you cannot do it. In State of Hawai'i, you cannot smoke indoors in a commercial business, period. I think a similar law statewide saying you cannot smoke with a minor in the car, period. That would seem to make more sense rather than, you cannot do it in Kaua'i, but can do it in Honolulu and wherever. Anyway, I have concerns again and I hope statewide, that they address this problem and make it easier and consistent. Thank you, Chair.

Council Chair Rapozo: Thank you. Any other discussion?  
Councilmember Hooser.

Councilmember Hooser: I am in strong support of this measure. I want to commend Councilmember Chock for introducing it and for the community-based advocates who have been working on this issue and many other related issues over the years and brought it forward. Like others here on the Council, I also see people in their cars with their children, and I more often than I would like to see or would like to think I do see adults in cars with children who are smoking. Sometimes they are trying to hold the cigarette outside of the window, but at the end of the day, they are smoking with young children, sometimes very young children, sitting right next to them. I believe we have the responsibility as the elected leaders of our community to look out first and foremost, for those that cannot protect themselves such as children. Even if one (1) child or one (1) family is protected by this measure, I think it is worth doing. I certainly hope that the State passes the statewide measure. There is no question about that. I understand the police has many duties and they are doing a great job, but I believe I saw testimony from them in support of this measure. I am happy to see that. I believe the Office of the Prosecuting Attorney also expressed some support. Again, I think we have a duty to protect the children and to look out for the health of those small people that are not able to look out for their own health. Again, I am also hoping that the State will pass it, but I am in strong support of the measure moving forward. Thank you.

Council Chair Rapozo: Anyone else wishing to...Councilmember Yukimura.

Councilmember Yukimura: Yes. For me, this is a no-brainer because it is about the health of our *keiki*. I see here from the materials given to us, that according to the Surgeon General, even brief exposure of secondhand smoke is dangerous and

can be harmful, and it is especially dangerous to children because their bodies are especially vulnerable. A car is a closed space. It is a very small space, so you would have a concentration of smoke. Based on the testimony, kids do not have a choice. They are not empowered to make their own decisions. They cannot open the car door and leave. So they are a captive audience and we need to protect them. I do not think it needs a concerted effort from the police. If in the course of their work they come across the situation, then they will be able to enforce it. Without the law, they will not be able to enforce it. They are just going to stand by and watch and not be able to do anything. This would give them the tools to stop the situation. I think we need it. I also think that if the State passes it, we do not have to pass it at this level. I think a deferral at this point is appropriate.

Council Chair Rapozo:

Anyone else? Councilmember Chock.

Councilmember Chock: Yes, I will just add to it. I did do a little bit of my own research as well. I mentioned that I had been looking at this for a year and I sent out inquiries. I was wondering the same question, is this pervasive in our community? Is this something that we really need to address? I sent it out to about ten (10) different people to just keep an eye on it. In the last year, I got three (3) responses, which is about a thirty percent (30%) return out of ten (10). It does occur, unfortunately one too many. It is something that I think we should be looking at even if it happens for a short interval. It does make a difference. I also just wanted to mention that the Big Island has successfully implemented it, unlike some of the other bills that were in discussion earlier. They have not had a challenge as other bills have been discussed in the past. I would just spend the time to look into this a little further. I think there is a way to enforce it as there are some concerns about that. Again, I think we have seen support widely not only from our own County agencies; Police and the Office of the Prosecuting Attorney, but also the other islands. I agree with Councilmember Kagawa. I think education is foremost, and I think that we need to support everything that we can do; however, the roads are within our purview. It is within our jurisdiction. We make sure that safety is a priority by having people put their seatbelts on, make sure their cars are in order, their turn light signals and lights are all working, and this is one (1) small step that we can take as well to ensure the safety of our residents. Thank you.

Council Chair Rapozo:  
Yukimura.

That is your third time, Councilmember

Councilmember Yukimura:

Third?

Council Chair Rapozo:  
going to have a lot of discussion in the Committee.

Yes. Again, we are going defer this. We are

Councilmember Yukimura:

I asked a question the first time.

Council Chair Rapozo:

No, go ahead.

Councilmember Yukimura: If this Bill comes back to us needing work, I would like to know more about the Big Island's experience. It has been in effect since 2010, so how many enforcement cases have there been during that time? It would be interesting data to have.

Council Chair Rapozo: I am hoping that they will...a request was sent out, and it looks like the Office of the Prosecuting Attorney has contacted the Hawai'i County Office of Prosecuting Attorney as well, but they have not reported any difficulties. I am curious to see how many cases were actually cited and prosecuted. Councilmember Hooser.

Councilmember Hooser: Just real briefly. I think passage of something like this just sends a huge message that it is not okay, that it is against the law, and other children in schools will know that it is against the law. The children riding in these cars will know that it is against the law and their parents will know it is against the law. I do not think it is about giving tickets. It is about compliance. We will just send a strong message that it is not okay to smoke in a car with a young child or any child and put that message out there, that message will multiply, and there will be less adults breaking the law and smoking in cars with children and harming their health. Thank you.

Council Chair Rapozo: Did you have a comment?

Councilmember Kagawa: Again, I hear so much concern that people are getting sick and dying. I mean, what about at home? Are we going police that too? Are we into doing parenting laws here? Are we judging parents, whether they are raising their children right? To a certain point, let us get back to what we need to do in basics. If we are trying to cure smoke effects on children, then we have go to Congress and ban smoking outright, because people are doing it in their homes and are still affecting children. Let us take it to the right avenue. I think pandering is not effective. I think pandering is pandering, and certainly in a car is one (1) facet of their life. If it is dangerous, then go for changing it in all aspects of their lives, not just this. That is my general feeling.

Council Chair Rapozo: Okay. Well, we will have a month do our due diligence. One (1) of the things I battle with is at what point is the County's responsibility stop and the State's responsibility start, at what point does someone's private rights should be preserved and we should be helping that? On the other side, I am thinking this is a problem. It is a huge problem. Again, is it in our arena to address? Councilmember Kagawa brings up a great point about the house. You have people living in small homes here that that smoke has nowhere to go, and is that what we are going to address next? Is that something that the County Council should be looking at? Also, the Kaua'i Police Department (KPD) did respond and although their letter says they are in support of the additional language, they have concerns. They have a lot of concerns about enforcement. They have concerns because of the officers' ability to determine how old the kid is. There is concern about that. There



is also concern from the Police Department that electronic cigarettes (e-cigarette) may or may not contain nicotine, and they will never be able to determine what substance is being smoked, or vaporized, or whatever it is called. They did not come out and say, "We support that and we support the additional language, but we have some concerns about enforcement and we have concerns about the terminology being used and the fact that e-cigarettes are becoming very popular." How will they enforce that? As a former cop, I can tell you when you pull over a car...I remember the one (1) time I pulled over a car heading down Moloa'a stretch and this person took out his beer bottle to show me, "haha." I chased him all the way down to Kilauea only to stop him to find out that it was root beer. It was embarrassing, it was confrontation, and thank goodness there was no altercation. Every time we put an officer in the line to make a vehicle stop, we have to consider that it could be a problem and this is a difficult thing to catch, and I understand. I think a Councilmember said that they are not going to be actively enforcing it, but if they come across it...again, do you have to warn the parent of their rights before you can ask them if their kid is eighteen (18), or seventeen (17), or sixteen (16)? Education is key. I think education is working, but maybe they need a little stimulus from local county legislators in the way of a law. I do not know, and that is something that I have to look at in the next coming months. I think that we definitely got to address it and I think a lot of good information will come out of this. I, too, will be interested in...and not that it matters what the Big Island does, but I am curious to see how it is working on the Big Island. With that, can I get a motion to defer until May 18<sup>th</sup>?

Councilmember Kuali'i moved to defer Proposed Draft Bill (No. 2629) to May 18, 2016, seconded by Councilmember Yukimura, and carried by a vote of 6:1 (*Councilmember Kagawa voting no*).

Council Chair Rapozo: Motion carried.

SCOTT K. SATO, Deputy County Clerk: We are at the top of page 2.

C 2016-98 Communication (03/15/2016) from the Acting County Engineer and the Director of Finance, requesting Council approval of the following unbudgeted equipment purchases using funds from the Department of Public Works, Roads – Baseyard Divisions, Other Supplies accounts for Fiscal Year 2015-2016, at an estimated cost of \$67,500:

- Replacement Heavy Duty Excavator Mounted Mulcher – \$40,000
- 9 cubic feet Cement Mixer (Bridge Crew) – \$5,000
- Riding Lawn Mower with small utility trailer (Levee Crew) – \$5,000
- Riding Lawn Mower with small utility trailer (Kapa'a Baseyard) – \$5,000
- 2 Plate Sled Compactor with Water Tank – \$8,000
- Rotating Laser Instrument (Bridge Crew) – \$4,500

Councilmember Kagawa moved to approve C 2016-98, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion? Councilmember Kagawa.

Councilmember Kagawa: I want to thank our staff. I think some of these purchases were done after we did a personal request to ask Kapa'a Baseyard to ask the Department of Public Works to consider some equipment additions. I had some concerns raised by some of the baseyard roads maintenance workers, and they said a lot of jobs that were being done by hand could have been better served using equipment, but the equipment were old, broken, not working, et cetera. We did a personal request and I am glad to see about six (6) months later, voila. Certainly using men instead of machinery at times is very inefficient in this modern day of life that we live in. We would like to see our County workers doing most efficient job they can, having the proper tools that are working. Again, thank you to the staff for following up on my personal request. I commend the Department of Public Works for responding and giving the men the tools that they need. Thank you, Chair.

Council Chair Rapozo: Thank you. Anyone else? Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2016-98 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2016-99 Communication (03/29/2016) from the Acting County Engineer, transmitting for Council consideration, amendments to Chapters 18, 20, and 23 of the Kaua'i County Code 1987, as amended, relating to revocable permits for County designated rights-of-way, to clarify the process and responsibilities for permitting of vending on County owned property: Councilmember Kualii moved to receive C 2016-99 for the record, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

ALICE PARKER: Alice Parker, for the record. I am concerned that this may take a low-income rental property off the market, and that it will go to regular pricing. Thank you.

Council Chair Rapozo: Anyone else?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Further discussion?

The motion to approve C 2016-99 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2016-100 Communication (04/01/2016) from the Housing Director, requesting Council approval to decline the repurchase of Unit No. 701 in Ho'okena at Puhī, 2080 Manawalea Street, Līhu'e, Hawai'i, Tax Map Key (TMK) (4) 3-3-003-036-0041, and grant the owner a one-year waiver of the buyback provision to allow for the market sale of the property by the owner: Councilmember Kualī'i moved to approve C 2016-100, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion? I think Ms. Parker's testimony was intended for this item, but that is okay. We got the message. I tend to agree with Ms. Parker and there is something that I just want to have a real quick discussion on. As we are in this crisis of affordable housing and this particular purchase, this property, is basically estimating that the buyback would be three hundred twenty-three thousand dollars (\$323,000). If the County purchased this property at three hundred twenty-three thousand dollars (\$323,000) and resold it to the affordable market and keep it in affordability, even if we sold the unit at less than what we bought it, let us say we sold it for three hundred thousand dollars (\$300,000), even two hundred eighty thousand dollars (\$280,000), which we would not. I think in this market, it is a buyer's market right now, and I think as I have been looking at the prices of real estate on Kaua'i, even if we took a ten thousand dollar (\$10,000) loss, even if we took a twenty-five thousand dollar (\$25,000) loss, we have now allowed a home to be affordable into perpetuity, really because we would always have that first right, for fifteen thousand dollars (\$15,000). If the buyback was six hundred thousand dollars (\$600,000) or four hundred thousand dollars (\$400,000) or five hundred thousand dollars (\$500,000), I think maybe it is not worth it, but these are the little nuggets that we have to pick up in my opinion. I would ask that we ask that we refer to the Committee and have the discussion with the new Housing Director. I thought about this, that it is going to cost this County, even if it costs this County twenty thousand dollars (\$20,000), we have created an affordable property for twenty thousand dollars (\$20,000), which you cannot buy...anyway, I think you get my point. I would ask that we do that and maybe we have to reassess the policies here in the County, that what is that margin that we are willing to spend to keep a family in an affordable unit? Ms. Parker, I do not know if we are on the same frequency, but I think that is what you were saying, that once we give this up, it is done. We have actually facilitated a speculative home purchase because now this person has the ability to sell this property at whatever they want. Councilmember Yukimura.

Councilmember Yukimura: Yes, I agree. I thought that we were going to have the Housing Agency here. I think a good alternative is to put it back in Committee and ask them to come because I think you are right, Chair. If we do not look at this carefully, we may be foregoing an opportunity to keep a house in the affordable housing inventory. I would support a referral to Committee.

Council Chair Rapozo: Thank you. Is there any other discussion on this?

Councilmember Kualifi withdrew the motion to approve C 2016-100. Councilmember Kagawa withdrew the second.

Council Chair Rapozo: Thank you.

Councilmember Yukimura moved to refer C 2016-100 to the April 27, 2016 Housing & Transportation Committee Meeting, seconded by Councilmember Kualifi.

Council Chair Rapozo: Thank you very much. No further discussion.

The motion to refer C 2016-100 to the April 27, 2016 Housing & Transportation Committee Meeting was then put, and unanimously carried.

Council Chair Rapozo: Thank you very much. Thank you, Ms. Parker. Next item, please.

Mr. Sato: This brings us to the top of page 3.

C 2016-102 Communication (04/11/2016) from the Salary Commission, transmitting for Council information, the Salary Commission's Resolution No. 2016-2, Amending Resolution No. 2016-1 Relating to the Salaries of Certain Officers and Employees of the County of Kauai.

Council Chair Rapozo: Just a process question, staff. I do not want to know if we can or cannot do it, but I want to do is discuss all of this in the same discussion so we are not chasing people back to the next item. Is that possible? Is it practical for you to have the discussion on both at the same time or is it difficult for you? Okay, I can read your body language. We will start with C 2016-102. Can I get a motion?

Councilmember Kualifi moved to reject Salary Resolution No. 2016-2 in its entirety, seconded by Councilmember Kagawa.

Council Chair Rapozo: Thank you very much. With that, is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Is there any discussion? Go ahead.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: We are on C 2016-102.

Councilmember Yukimura: Yes. In this Resolution the proposed salary increases are included for the positions from Mayor to the Deputy Fire Chief. I believe these are the salaries where there has been, in many cases, great inversion where there has been a real difficulty in competing with the market. Also as I said before, it is very important that we support good management, and I think passing this Resolution or approving it, would be the right thing to do, and therefore, I will be voting against the rejection.

Council Chair Rapozo: Any other discussion? If not, roll call...oh, go ahead.

Councilmember Hooser: Is the motion to reject in whole?

Council Chair Rapozo: Correct. We need five (5) votes to reject. With that, roll call...Councilmember Kaneshiro.

Councilmember Kaneshiro: Yes. We just went over this a few weeks ago, and I stated my position on this. I do not know. I will restate my position on my vote just so that it is not skewed. Again, I do not like repeating myself, but it is up again. It is only fair to repeat my position on this as it is. For me, it is what is in the best interest of the County in the long-run, and understanding the budget ramifications, it is easy to say no increase each and every year due to budget concerns or wrong timing, which is what I said last year. I did not even get to see the budget. I was the Budget & Finance Committee Chair. This came up before I even got to see the budget. I was not comfortable with it. As you think about it, there is no right time to increase salaries. There will never be a right time. We can always find an excuse not to do it. There is a long-term effect on our decision, and that effect is that the amount gets compounded every year, the disparity will be larger every year, and the percentage increase will be larger every year. What do we do? Do we continue to put it off or do we vote on it now? Do we go for the increase and figure out how to fund it or does the Administration provide cuts to fund it and take it from there? I think last time they did the increase, they had to increase the salaries by twenty-five percent (25%) because it went so long with no increases. There is no right time. To say our department heads should not get paid comparable to what other counties pay, I do not know. We are a smaller county, but maybe we have more difficulties because we

have a smaller economy of scale to do the type of work we need to do, so we need people that are even more forward-thinking. If we had a couple million people all paying taxes, then I think we would be in a pretty good financial situation, but we do not. We have limited resources, and it just hinders us from competing with the private sector and positions around the State. That is where we are trying to get people...and also to keep the people here. We have seen people leave for the private sector or other job opportunities. I think we want to do well, and we need good people there. We hear it all the time. It is difficult for us to actually get great people, attorneys, or Certified Public Accountants (CPAs). We have a great attorney now, but what keeps him from wanting to move to the private sector? I do not know, maybe he enjoys being tortured here for a while. But I know it gains good experience, but again, I would like to keep people here who are doing a good job. Taking a step-back, what do we need to do? What is in best interest of the County for the long run? Again, this is the recommendation from the Salary Commission. The Salary Commission is made up of volunteers with no connection to the County, and they take an unbiased look at the salaries. Basically, their job is to provide a resolution that attracts and attains public servants for the highest caliber and quality. They spent many hours working on this, and of course, fairness was the overriding consideration. As we go into this, I just want to make sure that people know that this is a recommendation from the Salary Commission. If it gets approved or not approved here, it is ultimately the Administration's responsibility who will actually get the raise and who will not based on their own criteria. That is where the responsibility is held. The responsibility is held at the Administration. Are we able to justify increases? Does our budget also justify the increase? So that is my stance on that, and it is kind of unfortunate that we have to deal with it again. I think I have to repeat myself, but that is my stance on it.

Council Chair Rapozo:

Councilmember Hooser.

Councilmember Hooser: Yes. I will be supporting the motion, which if it passed by the five (5) votes, is that correct?

Council Chair Rapozo:

Yes.

Councilmember Hooser: Would deny the pay raises. My vote is not a reflection on the individuals who are in these positions at all. It is a vote that basically says I think the pay is sufficient. I differ with other comments that says that we are being harmed. We are not paying enough. I think the pay is sufficient. I believe most of these positions, if not all of them, are one hundred thousand dollars (\$100,000) or more, or close to it anyway. The taxes and fees continue to go up in the County and we talk about raising the General Excise Tax (GET) that is still on the agenda. There are many other needs that we have to face in this County. I will not be supporting increasing the pay for the administration's directors and deputy directors.

Council Chair Rapozo:

Anyone else? Councilmember Kualii.

Councilmember Kualii: Yes. I cannot believe that we are back here. We just dealt with this. We had extensive discussion. We heard from the community. If the Salary Commission did their work and gave us a proposal, that was the proposal they gave us just a few weeks ago. Now we have another proposal and all that is different about this proposal is that they removed the Council. So everybody else should get a raise, but now we do not believe that the Council should get a raise. That is just pandering to me, like has been said before, to get a vote on the Council. That is not right. That is not how we serve our constituents. I do not know what happened at the Commission meeting. Why did they revisit this and all they do was take out the Councilmembers? What kind of justification is there when you decide one thing and now you decide the opposite? All that is pandering, and trying to get one (1) more vote so this can fail so that we as a Council cannot do our responsibility to the people. It is wrong, utterly wrong. I hate being put back in this position, but I have to vote to reject again, and hope that there is five (5) votes to stand up to what we already did for the people. There is no justification that these raises to one hundred thousand dollar (\$100,000) positions is absolutely needed and dire because this County is suffering because people are leaving. There is no justification. The Salary Commission has not given us any of that, and any problems that we have with inversion is self-induced. We are causing these problems ourselves. So it is time we stop the bleeding and fix this, and yes, there is a right time to consider justifying raises, and that time is after we do a better job with this budget. Year after year, this Council has only really altered the budget in small ways, but ultimately giving the Administration everything that they wanted, and this budget has grown and grown and grown year after year by millions of dollars and now we are coming to the people and asking them for more GET? More GET on our *kupuna* and the people struggling most and making the least money? Twenty dollars (\$20) means so much to them, like the Chair said before. No, this is wrong. Vote C 2016-102 and C 2016-103 down because it is not right.

Council Chair Rapozo: Anyone else? Councilmember Kagawa.

Councilmember Kagawa: We praise the Salary Commission for their work. They did a great job in analyzing what is fair compensation in comparison to other counties, in comparison to the subordinates that they manage, and in comparison to other wages for similar professions in the County of Kaua'i in the private sector. Again, I think they did a fabulous job in putting in the time and effort to come up with a salary schedule that they feel is sustainable; however, our job on the Council is to manage our budget and to spend within our means, and at this time, without proposing any GET or any significant other taxes or fees on our people, I find it irresponsible to vote for any salary increases of this large magnitude. Therefore, yes...is it five (5) minutes already?

Council Chair Rapozo: Yes, you did twice.

Councilmember Kagawa: I did twice?

Council Chair Rapozo: That is what my timekeeper is telling me.

Councilmember Kagawa: It is my first time.

Council Chair Rapozo: That was his first time on this matter.

Councilmember Kagawa: I am done.

Council Chair Rapozo: You can finish up.

Councilmember Kagawa: Yes. I am voting to reject not because I believe that the Salary Commission did a poor job or that the managers do not deserve an increase. It is our responsibility to manage the budget, and I do not see the sustainability of our budget to handle these increases at this time. Thank you, Chair.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I just want to clarify that this Resolution does not just leave out the County Council salaries, it leaves out nine (9) other department heads, and that is in the next Resolution. It is not just Council salaries that it leaves out, it leaves out other managerial levels.

Council Chair Rapozo: I am not going to speak for Councilmember Kualii. Councilmember Chock.

Councilmember Chock: I just wanted to state, I will be voting consistently as I have before. I, too, am not thrilled about having to see this again. But as I had mentioned before, I am willing to take some small steps. This is a small step. There are budgetary concerns and therefore, I am willing to meet halfway in this year's request.

Council Chair Rapozo: I think what Councilmember Kualii was saying was that last week we had this opportunity and we could have rejected the bottom half and the Council. The Council voted two (2) weeks and came out rejecting the raises. I have to agree with Councilmember Kualii on the rationale of the Salary Commission to come back with a Resolution removing the Council. I am baffled. Throughout the discussion, and we have had a lot of discussion on this matter, the consistent theme was it is not about the personalities. It is not about the people in the positions, but it is about the position. It is about the position. For some reason the Salary Commission, by this Resolution, is saying that the County Council of the future, not us, the County Council of the future was not worthy of the salary that they originally...their research or whatever, their work said that the County Council deserves this much. Now in a matter of two (2) weeks, something happened and they said, "Do you know what? Come to think of it, they do not deserve it." I am not talking about Councilmember Hooser, Councilmember Yukimura, Councilmember Kualii, Council Chair Rapozo, Councilmember Chock, Councilmember Kaneshiro,



and Councilmember Kagawa because it is the position. But because the Commission had probably heard that hey, if some Councilmembers are concerned, they do not think the Council should get a raise. They went back and said, "Let us take them out and maybe we will get a different outcome." Councilmember Kualii, there is no way I could have said it better than he did. That is frustrating to me, because they put in all the work and say, "Okay..." That is not their job to secure the votes necessary so that administrative people can get a raise and we will use the Council as the martyrs. Sorry, we are just going to toss you to the side so we can get the Administration the raise. That is now how it is supposed to be done. They submit a recommendation, the Council acts, and we did. Now, we do not have a choice in this. They submit a resolution and we have to vote on it. That is fine and that is cool. I just am having a real problem. My position has not changed either. Is it right time? Is it feasible? It is not about the people. It is not about who is in those positions, but it is about can we afford it right now? Can we afford it right now? My position has not changed and will not change. I think it is just unfortunate. You have an opportunity, the opportunity fails, and then you go back and come back again and try again. At the end of the day, I respect the process and I respect the outcome. We will obviously comply with the outcome. Councilmember Kualii said it best, what happened between two (2) weeks ago and this week that all of a sudden the future Councils do not deserve a raise? That is troubling and maybe we will get to hear from the Salary Commission at some point. Anyway, with that, the motion is to reject in whole. Roll call.

The motion to reject Salary Resolution No. 2016-2 in its entirety was then put, and failed by the following vote:

FOR MOTION:	Hooser, Kagawa, Kualii, Rapozo	TOTAL – 4,
AGAINST MOTION:	Chock, Kaneshiro, Yukimura	TOTAL – 3,
EXCUSED & NOT VOTING:	None	TOTAL – 0.
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(Motion to reject Salary Resolution No. 2016-2 in its entirety failed; Pursuant to Section 29.03 of The Charter of the County of Kaua'i, there were insufficient votes to reject Salary Resolution No. 2016-2 in its entirety.)*

Council Chair Rapozo: Motion fails and Salary Resolution No. 2016-2 passes. Next item.

C 2016-103 Communication (04/11/2016) from the Salary Commission, transmitting for Council information, the Salary Commission's Resolution No. 2016-3, Amending Resolution No. 2016-1 Relating to the Salaries of Certain Officers and Employees of the County of Kaua'i: Councilmember Yukimura moved to reject Salary Resolution No. 2016-3 in its entirety, seconded by Councilmember Chock.

Council Chair Rapozo: The motion is to reject. Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Is there further discussion? Councilmember Chock.

Councilmember Chock: Yes, just to mention small steps again, and that is why I am voting in favor of rejecting the second half, something that maybe we can look at again in the future. Just in terms of the Council's removal, I too, am a little bit concerned about the process that took place. I want to reiterate that for me it is not about whether or not future Councils should or should not get it. It is just about principle, the fact that we should not be looking at this, and that there needs to be some change in the process so that we are not overseeing that recommendation. My hope is that that message is heeded, and we find a resolution to it in future so that it can be voted and decided upon effectively. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: This Resolution rejects or does not include Council salaries just like the first did not include Council salaries. It includes positions from the Director of Economic Development down to the County Auditor, which was the second tier that I suggested deferential treatment on. I first want to say with respect to the Council's salaries, even though it is for future positions that future position is just nine (9) months away or less, and not all of us are not going to be on the next Council. So in effect, people are voting on their own salaries, and I think that is why Councilmember Chock is saying that the Council needs to be taken out entirely from any action on Council salaries. I also want to say that maybe the Salary Commission heard me that fifty-six thousand dollars (\$56,000), which is what the Council now gets, plus an allowance of about six thousand dollars (\$6,000) for car and phone is sufficient for a part-time salary. So maybe it is not necessary to raise Council salaries at this point. Then as to the nine (9) positions that are here and represent the second tier, I want to say that unlike the first group of salaries, which we just allowed to stand, there is no major inversion between the department heads and the people under them. There are no huge disparities with similar positions on the other islands, and I would like to ask staff to pass out the chart, which shows Maui County and Hawai'i County's current salaries, and Hawai'i County's current salaries as compared to the Kaua'i County proposed salaries. You will see that we are not very different from Maui or the Big Island. Maui has twice the population that we have, and Big Island has three (3) times the population that we have. Also, we are not dealing with a problem of competing with the private sector or retaining managers because I think we could get quite a few applications for these positions if

these positions were posted and if there was an actual recruitment process. As Councilmember Kaneshiro said, there is no perfect time. Well, I say given the fact that there is no real inversion and there is no disparity with the other islands, there is not a problem of competing with the private sector. Now is not the time for these salaries. We can wait and we can increase them later on. Thank you.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. I am a little concerned that the previous Resolution had passed. It is a little early for Christmas, and Christmas came early to those on that list. Given the fact that we are again, broke, a recent report said our residents of the State of Hawai'i pay the second highest taxes in the nation when you combine real property taxes, income taxes, General Excise Taxes, and all the other taxes and fees on vehicles and what have you. We have a General Excise Tax proposal that we are floating to possibly be the top in the nation. If we are broke and we are increasing salaries, where is the money going to come from? We are broke. We have roads and bridges that are in dire need. Where is the money going to come from? Again, I am concerned that the first one passed, and then on this one, I am concerned that we are saying that we are not focusing on individuals and individual responsibilities in dictating which half gets cut out, but we ignore the fact that we have our Deputy County Clerk and County Clerk who have been working more tirelessly than any other Deputy County Clerk and County Clerk that I can remember with the make-up of this Council and the financial situation of the County at this time. They are off the list. No Christmas for you, Scott and Jade, and the Director of Parks & Recreation. I feel strongly that contrary to what some say, I think they are doing a tremendous job. We have Kekaha Gardens Park done. It is beautiful. It is what the community has been waiting for years. There were huge accomplishments in the parks. We are now working on Hanapēpē Softball Stadium. We have huge things that the Department of Parks & Recreation is doing the way that I feel that many of the public wants it to be done. The improvements of the parks, taking care of the senior softballs, all of the requests that they have as they grow, all the soccer and baseball that is played year round, and we leave the Director of Parks & Recreation out, but we give the Department of Public Works more and what do we have from the Department of Public Works? We have planters, bike paths, and sidewalks. So one could disagree as to are we really dealing with accomplishments or are we dealing with personalities? I feel like the cutting in half was totally wrong. You either take all of the salary increases from the Salary Commission or you take none. You do not split it in half and say, "Well, half of our work is the better half. This other half, is the one we do not like, but we are going to put them out there anyway." I feel like that is totally pandering, and that is the word, "pandering." I do not think we should be pandering when we are broke. When we pander, we should make solid decisions and do what is best for the people because that is what they are asking for. Again, I am going to vote for reject because we are broke, and I do not want our County to become the residents who are paying the highest taxes in the nation. I think number two is enough already. Let us drop down, if we can. I will remind you that it is not the property taxes. In the report that I saw, Hawai'i ranks

number two on the bottom in property taxes. We have the lowest property taxes amounts in the nation. It is the income taxes and the General Excise Taxes that are really high and we do not control that here on this Council, but we do control the property taxes. So congratulations. The County has done a good job in keeping property taxes fairly low, but when we are broke, let us not be irresponsible. Again, I look back at the previous decision and it is very troublesome that financially, we could not make the right decision today. I will be voting to reject again. Thank you, Chair.

Council Chair Rapozo: Thank you. Anyone else? Nobody?  
Councilmember Kualii.

Councilmember Kualii: We heard from one (1) Councilmember about being concerned about the process that took place in the last vote, but that Councilmember voted to reward that process and change the decision that was made before. You heard from another Councilmember that the Salary Commission did their great work, they had this wonderful proposal, and we support their work, but we only support the top half of their work. The bottom-half, I am going act like a Commission member myself and redo the work of the Salary Commission and bring in new county comparison...well, it is not even new County comparison data, but bring county comparison data and argue these bottom half positions should not get raises, but yes, let the top half get raises because of the comparisons to Maui and Big Island. The Salary Commission did those comparisons, they brought us a complete proposal, but now we are breaking it apart and saying half should get raises and half should not. I agree with Vice Chair Kagawa, it is all or nothing. Giving half raises and the other half not, now is more self-induced inversion. It is out of control. This is Council is not doing its job when it comes to the budget. It is very sad year after year. This is supposed to be about the positions and not personalities. When you start breaking it down, pulling things out, and making odd unexplainable decisions, it must involve personalities, otherwise, what is it? Where is justification? I always ask for the justification and with these, I do not really see it. Thank you.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Just to reiterate my position. From a budgetary standpoint it is either seven hundred thousand dollars (\$700,000) or half of that. I choose half right now. That is a little more fiscally responsible to me. I do not care who it is. We take half now and we take half next year. We are making a forward step in trying to achieve what the goal is, which is what the Salary Commission has. It is not about positions for me. I just want to make sure that is clear. Thank you.

Council Chair Rapozo: Anyone else? Councilmember Kaneshiro.

Councilmember Kaneshiro: I do not want to repeat what I said at the last Resolution, but again, I am going to stay consistent in what I said the last time I

voted for the complete Resolution. Now it is in half. My vote is not going to change. I am voting for the Salary Commission's recommendation. I would have loved to just vote on it one (1) time with the whole thing again, but it is broken in half. I am going to stay consistent with everything I said before and stay true to my conviction. That is the way I will be voting, and I might be the lone vote on this one, but again, I am staying consistent with what I said and what I hold true to.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: Yes. If we were meant to just rubber-stamp the Salary Commission it would not have even come to the County Council. The Salary Commission would make its decision and the Charter would say "so shall it be." But in fact it came to the Council and it came to the Council for a reason, because we control the budget and we are also are thinking individuals. Councilmember Kualii asked for justification. I think I gave three (3) reasons; there is not as much inversion, we do not have the problem of getting private sector applicants for this job or retaining people in it, and the present salaries are comparable to the other counties. It is not a reflection on any particular person. We are not pulling out positions by personalities. We are pulling them out by rationale. We are giving some very clear justifications. When we are broke, we do not add to the budget if we do not have to. I think with this bottom tier, it is not necessary at this time. So we are balancing the constraints of budget with our other responsibilities. I think the salary levels that are presently set for this tier are not out of whack and the raises are not as urgently needed as the top-tier. It is balancing the need to saving money.

Council Chair Rapozo:

Councilmember Hooser.

Councilmember Hooser: Yes. Chair, I will be voting in support of the motion to reject. I have been consistent from day one. I do not believe now is the time to increase the salaries of the Administration, of the leadership, particularly. I am going to be consistent in that vote and continue to express that opinion or feeling. Thank you.

Council Chair Rapozo: Thank you. Anyone else? If not, the Mayor wanted to speak. I am going to suspend the rules to allow the Mayor to speak, but just the Mayor. We already called for public testimony. You are a resource person. I am going to suspend the rules. Mayor, if you want to come up and say a few words.

There being no objections, the rules were suspended.

BERNARD P. CARVALHO, Mayor: Good morning, Council Chair and Councilmembers. First of all, thank you for the discussion and it is no secret from the beginning it was important that we come to you with a full package, if you will, that all of my department heads deserve. They all work hard. They all have their responsibilities. We have given you folks all of the information and comparisons to the neighboring islands. We have our set responsibilities, and to split and separate

and all of that is just unacceptable to me. I am hoping that you folks can reconsider and look at this whole package. We just had a recognition ceremony yesterday for our Boards and Commissioners and their volunteerism. I thank them for the work they did was very important. It was not just thrown together. It was done with information, analyses, comparisons, and all of it. To say one is better than the other one is just unacceptable. We are a team. We have given you folks everything that you folks, I feel, as far as the information-wise. Everybody has their responsibilities, and to say that we are separating is just unacceptable. I am hoping that you folks can reconsider that you look at the whole entire team. This is a team that has done tremendous work in their own capacities with doing what they need to do to support initiatives from you folks as well as from the Administration. I am just hoping that we can continue to look at that and make sure that that is a solid piece to support this Resolution. I am hoping that can happen today. Thank you.

Council Chair Rapozo: Thank you, Mayor. Councilmember Yukimura.

Councilmember Yukimura: Mayor, as Councilmember Kaneshiro pointed out, salary setting is a dual function. The Salary Commission recommends the maximum and we either approve or reject it, but that you have the other responsibility of setting the specific salary up to the maximum, the procedure for selecting people, and of course, we always want the very best managers. The question is of these positions that are up before us that are within your *kuleana*, because the County Clerk and County Auditor are not, how many of these positions did you post and go through a recruitment process where you advertised and then interviewed and selected?

Mayor Carvalho: I think I answered that question. I do not know how many, but I know that whoever we have on-board, I did a thorough analysis of that particular person for that experience and what they have to bring to the table. That is my responsibility to either go out or not. I can show you some of the positions that we did go out for, but the ones that we did not go out for, that I appointed because they have the responsibility and they have the experience that I felt, that is my responsibility. All I am asking you folks is to look at setting the salary and I will assign that to whoever I feel will fulfill the needs of that particular position.

Councilmember Yukimura: Well, yes, you certainly have the prerogative to do that, but the system that you choose for recruiting and selecting the very best manager possible for the County will either give us confidence or not in terms of how we set the salaries and do our responsibilities.

Mayor Carvalho: Right.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Councilmember Kagawa and then Councilmember Chock.

Councilmember Kagawa: Council Chair, I just had a question. If we could have Mauna Kea come up and explain why in this fairly unique case, that a minority of the Council has the power to pass this. You kind of explained that we need four (4) votes to kill it, but three (3) votes basically passes what they want. I just want the public to be clear because there may be some from the public that is watching and are wondering, what are you guys grumbling about? It did not have four (4) votes and it is going to pass. I want Mauna Kea to provide that.

Council Chair Rapozo: Okay. We will get that after we are done with the Mayor. Councilmember Chock, did you have a question for the Mayor?

Councilmember Chock: Yes. Thank you, Chair. Mayor, thank you for being here. The first half has passed, will you be providing salary raises for all of these that passed?

Mayor Carvalho: Will I be passing what?

Councilmember Chock: Will you be providing salary raises for all those on the list that were passed?

Mayor Carvalho: I am going to look at every single position right now and see which ones would be receiving whatever raises. That is my responsibility. You folks are giving me the cap.

Councilmember Chock: Absolutely.

Mayor Carvalho: I am looking at the each department head. We have not gotten a raise since 2009. At that time, the Council got a raise. I am not saying it, but that is the truth, however that came. All we are saying is that it has been over seven (7) years.

Councilmember Chock: I understand. Thank you. I was wondering if it is within your purview, will you going through a specific methodology to determine whether or not these positions will be given a raise?

Mayor Carvalho: We are looking at that as we speak. Whoever deserves a raise will get a raise, and whoever does not, will not. I will determine that.

Councilmember Chock: Would you be willing to share that methodology with the Council?

Mayor Carvalho: We are willing to share what we are doing.

Councilmember Chock: Thank you very much.

Council Chair Rapozo: Anyone else has a question for the Mayor?  
Councilmember Kuali'i.

Councilmember Kuali'i: Mayor, in your comments you said "separating is unacceptable," and you asked that we approve raises for all of the positions.

Mayor Carvalho: All of them.

Councilmember Kuali'i: So by what has happened with the 4:3 vote and the Council really not being able to approve or disapprove, that half is left in place because the Salary Commission now has given us two (2) separate resolutions by breaking it in two (2) separate groupings, and that first group will be approved. You will have the ability to give them raises. Now, if the second group is not approved, you will not have the ability to give them raises. So if separating is unacceptable to you, will you treat both groups the same and not given anyone raises?

Mayor Carvalho: I will look at the entire package.

Councilmember Kuali'i: The first group does include your own position.

Mayor Carvalho: Right. I need to look at...yes, it does include my position, yes.

Councilmember Kuali'i: Along those lines, do you think it is fair or correct that your position goes from...I do not have it in front of me now...one hundred twenty thousand dollars (\$120,000) to one hundred thirty-two thousand dollars (\$132,000), and that the County Clerk should remain at one hundred fourteen thousand dollars (\$114,000) and not get the five thousand dollars (\$5,000) to one hundred nineteen thousand dollars (\$119,000)?

Mayor Carvalho: I believe the Salary Commission did they are job. I did not have influence on what they did. They did the analysis, whatever they came up with. We are here to approve that.

Councilmember Kuali'i: But by giving raises to half and not the other half, you would in essence be playing a role in creating more inversion and inequity throughout the...

Mayor Carvalho: I am hoping that that does not happen. I am hoping that you pass the Resolution so we do not have to do that.



Councilmember Kualii: I am hoping that if it does happen, that you will manage it in a way that prevents it from happening.

Mayor Carvalho: I will look at the whole thing in the way that I feel is best for my Administration.

Councilmember Kualii: But what you said about separating is unacceptable.

Mayor Carvalho: I would prefer that everybody get a raise, as we said from day one because the Salary Commission came to you folks with a package and somehow it got split along the way. But we are talking about the second piece, which would make it whole. I am asking you folks to support this particular Resolution so we can look at it collectively overall.

Councilmember Kualii: Thank you.

Council Chair Rapozo: Are there any other questions for the Mayor?  
If not, thank you, Mayor.

Mayor Carvalho: Thank you.

Councilmember Kualii: I had one (1) question. Mayor, I have one (1) more question.

Council Chair Rapozo: For the Mayor?

Councilmember Kualii: Yes.

Council Chair Rapozo: Go ahead.

Councilmember Kualii: There was a point made by one (1) Councilmember about not getting applicants and having difficulty hiring these top level one hundred thousand dollar (\$100,000) positions. In your entire time as Mayor, have you had any difficulty in attracting and hiring any department director or any high-level position where it remained vacant for a period, six (6) months or whatever, because the salary is too low? Have you had any problem?

Mayor Carvalho: I have had difficulty in certain ways.

Councilmember Kualii: Can you tell me what the problem was?

Mayor Carvalho: No, just overall.

Councilmember Kualii: What position did you have a problem hiring for a significant period of time because the salary was too low and then you raised the salary...

Mayor Carvalho: County Engineer and Deputy County Engineer.

Councilmember Kualii: Was that position not about credentials?

Mayor Carvalho: Attorneys. I can give you all of it. Even our Director of Economic Development, which was a big one. I could go over all of it because you folks do not understand that I have to manage these operations every day and everybody has their set roles and responsibilities. To say one (1) has a license and the other does not....the Director of Parks & Recreation is responsible for the entire island and he, along with the team, has to manage that. I have to make sure we bring people in who has good hearts and souls, who are experienced, and understands the culture and understands what we are doing here. That is my responsibility. We are here today to ask you folks to please look at this salary package and let me manage what I have to manage. I know what I need to do and who is qualified or not. We will let you folks know how we move forward. That is how we have done it.

Councilmember Kualii: Thank you.

Mayor Carvalho: If it is a position that needs to go out, I put it out. If it is a position that I can talk to five (5) or six (6) people who are well-qualified, then I will do that as well through interviews.

Council Chair Rapozo: Thank you, Mayor. Mauna Kea. I think you heard the question. Why in this unique situation, a vote of three (3) members of the Council is a successful vote?

MAUNA KEA TRASK, County Attorney: Correct. For the record, Mauna Kea Trask, County Attorney. In looking at...

Council Chair Rapozo: In layman's terms.

Mr. Trask: In 1988, the Salary Commission was created. Based upon my research and understanding, looking at documents, listening to discussion on the floor by the members of the body and community who remember this, they wanted to make it less political, more scientific-based, and less arbitrary. The Salary Commission was created and they thought the best way do it was to have these people, volunteers, who are not paid, appointed by the Mayor and confirmed by yourselves, that would look at the objectives, look at comparables, look at what people look at in industry look at to set salaries appropriately. Therefore, they would pass a resolution. The Salary Commission actually passes the resolution, and they have

done so. In acknowledging though in creating this procedure, it was decided that the members of the legislature, which controls the County purse strings, nonetheless should have what is effectively a veto via power of rejection over the Salary Commission's already passed resolution. The Salary Commission is passed and it goes into effect regardless of the act of the Council or the Mayor within sixty (60) days because it has passed, unless rejected specifically by a vote of five (5), which is a supermajority of the Council. The only act therefore in this case, is a negative one because it is already passed. Then this would be the act that would stop it. This is not an issue that needs to be politically passed because it is meant to be more apolitical. Therefore, it needs to be rejected by five (5) versus approved in any way, shape, or form because assumedly, they did contemplate the fiscal status of the County and all of these other variables and tangibles.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I guess in layman's terms, would the motion to reject need five (5) votes because it would appear like a supermajority that would override a veto?

Mr. Trask: Correct.

Councilmember Kagawa: Is that the purpose?

Mr. Trask: That is the purpose.

Councilmember Kagawa: Okay. Thank you.

Council Chair Rapozo: Thank you very much.

Councilmember Kualii: I have a question.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: The Salary Commission has the authority to submit to a proposal that includes all of the positions, thirty-one (31) or whatever it was, then that proposal can be rejected by a vote of 5:2, and then they can come back and just break that up in two (2) pieces and try to get half of it passed or not five (5) votes to reject, or just take out a piece like the Council? How often can they keep coming back to get some semblance of something that passes? If that is being altered in that manner, how could that not be political?

Mr. Trask: That is a really good...

Councilmember Kualii: If they did it once a year, all or nothing, or with their full comprehensive package that they worked on and put forward, it went up or down, and they came back next year again with all the additional studies and

additional justifications on what they have experienced, and difficulty in hiring, that is one (1) thing. But now to see this separated out in multiple resolutions and both of them do not have the Council positions in it, but they have two (2) groupings so that maybe we can at least get one (1) grouping passed. This does not seem like how the process was intended. Was it intended by Charter for this Salary Commission to do this kind of wrong on behalf of the people?

Council Chair Rapozo: Well, let me just interject real quickly because I think there is a question in that, which I am interested in as well. Is there any prohibition or any limit to how often the Salary Commission can submit a resolution to the Council?

Mr. Trask: I do not know.

Council Chair Rapozo: You do not know?

Mr. Trask: I do not know.

Council Chair Rapozo: Well, I think we need to know, or I think we need to find out.

Mr. Trask: Yes. We had extensive conversations with the Office of the County Clerk, and my current understanding is that there is precedent for this. It was done with Chief of Police's salary, Fire Chief's salary, various parts of the salary, Standard of Conduct Differential (SOCDD)...

*(Councilmember Kagawa was noted as not present.)*

Council Chair Rapozo: The fact that we may have violated a rule or law in the past does not give us justification to do it again.

Mr. Trask: I understand that as well. It is a compound question. There is a lot of facets towards it. I would like to also address one (1) important point that Councilmember Kualii made, which I agree with. There is always politics involved. Creating eight (8) political commissions does not get rid of politics. It just creates more politics.

Council Chair Rapozo: Layers.

Mr. Trask: Yes. I do not know the answers to all of this right now and it is not one (1)...it would not include an analyses of just one (1) charter commission or analysis of one (1) charter amendment. There has been a total of approximately three (3) or four (4) throughout the history of the Salary Commission. I do not know.

Council Chair Rapozo: Okay, I guess I would ask that we put that in a formal request. In effect, is this even legal? I would suggest that the Administration hold off on granting any raises until we find out because I would hate to see employees give money back. All I want to know is if in fact, what is happening is not prohibited.

Mr. Trask: To address one (1) more question that Councilmember Kuali'i made, I do not think that...it says right here Section 29.02, "The Commission shall..." I am sorry, Section 29.01, "There shall be a Salary Commission composed of seven members to establish the maximum salaries of all elected and appointed officers as defined..." "The commission shall adopt and, when it deems necessary..." I am sorry. Section 29.03 "The commission's salary findings shall be adopted by resolution of the commission..." If they find that they should bifurcate it, and I was not present at the meeting. I understand members of this body showed up and this was the product. I understand originally there was a single resolution. I do not know what happened there. It is going to take a lot of analyses. I do not think it is prohibited to do...if they find bifurcated is necessary, then that would be their finding and they would adopt that resolution is what I am imagining.

Council Chair Rapozo: I am not questioning the bifurcation of it. I am just questioning if they can submit a resolution every month?

Mr. Trask: Good question.

Council Chair Rapozo: Does the Charter specify that?

Mr. Trask: The Charter is meant to be an organic, non-detailed document. It is supposed to be general.

Council Chair Rapozo: I just thought I heard you say "as deemed necessary."

Mr. Trask: Correct.

Council Chair Rapozo: Was that the timing language? I thought I just heard you read that and then you jumped to the next section.

Mr. Trask: Yes, it says, "The commission shall adopt and, when it deems necessary, may change the policies governing its salary-setting decisions." So I imagine that would be the rules. That pertains more to their commission rules than the Charter.

Council Chair Rapozo: Okay, "when deemed necessary" could be every month or every other month.

Mr. Trask: Well, I do not think that necessary deals with...

Council Chair Rapozo: We will send it across because I do not want to speculate.

Mr. Trask: Neither do I.

Council Chair Rapozo: At the end of the day, whatever the rule says, whatever the authority of the Salary Commission, the final judge of what happens is the public. They are the ones that are going to question what is going on. I think it is political. What just happened was a great example of a political process where how many bites of an apple do you get? Are you just going to keep coming back and keep coming back? It may be, probably in fact, almost positive that it is proper to do that. I do not think it is a prohibition, but at the end of the day, the public sees this and they see this process and say, "Wow." So that is the final judge. Any other questions for Mauna Kea? If not, thank you very much.

There being on objections, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: I think everybody spoke already, right? Is there any final comments before I make mine? Councilmember Hooser.

Councilmember Hooser: Just real quick. The Mayor mentioned everyone works hard and everyone deserves it and I have no doubt that is the case. I think there are people all over our community that work really hard and deserve more, but it is about the ability to pay. I am consistent in my vote today. I would have preferred that no raises be granted at all, and with this situation that we have now, it is a little ugly actually, having some getting and some do not, and who deserves it and who does not deserve it.

*(Councilmember Kagawa was noted as present.)*

Councilmember Hooser: It is unfortunate that we are here today, but I am going to be consistent with my vote to say loud and clear, I do not think now is the time to grant raises. Thank you.

Council Chair Rapozo: Thank you. Anyone else? Last chance.  
Councilmember Kualii'i.

Councilmember Kualii'i: I just want to put some numbers out there. The comment made about making half now and half later, it is just not true. These positions that are nine (9) now, the final positions we are considering on whether they get a raise or not, these positions represent less than one hundred thousand dollars (\$100,000), seventy-seven thousand dollars (\$77,000) worth of increases for

all nine (9) positions. Seventy-seven thousand dollars (\$77,000). The overwhelming raises of nearly five hundred thousand dollars (\$500,000) was in the group already approved. Basically, we have given raises to a group of people that cost five hundred thousand dollars (\$500,000) and we are unwilling to give raises to the remaining nine (9) positions for seventy-seven thousand dollars (\$77,000), saying that times are tough and we cannot afford it. This whole process has been a struggle between what our budget is and what we can afford versus what is deserved and what is fair. We are just making things worse by doing what we are doing, by breaking it into these groups. The Mayor was right to say that separating them is unacceptable. Separating them over seventy-seven thousand dollars (\$77,000) is truly unacceptable. We have a one hundred eighty million dollar (\$180,000,000) budget, so now to stand on principle over seventy-seven thousand dollars (\$77,000) to say that the Director of Economic Development, Liquor Control, Director of Parks & Recreation, Deputy Director Parks & Recreation, Housing Director, Boards & Commission Administrator, County Clerk, Deputy County Clerk, who we know firsthand works so hard, and County Auditor; to say those nine (9) positions do not deserve seventy-seven thousand dollars (\$77,000) more in raises and to have already said all of the others can get five hundred thousand dollars (\$500,000) more, that is wrong.

Council Chair Rapozo:

Councilmember Chock.

Councilmember Chock: I mean, the figures I was given was different. I do not want to talk about math any further, but I think that is something that needs to be revisited before quantifying. Thank you.

Council Chair Rapozo: Councilmember Yukimura, you spoke twice already. We are going to move on. Any other...

Councilmember Kualii:

I just wanted clarification on what the vote is.

Council Chair Rapozo: The vote is the same. The motion was to reject, so five (5) votes to reject, and anything less will pass. Let me just say it is a really bad position for this Council to be in right now. I do not like to be put in that kind of position where typically it is hey, we are on a timed deadline, so we have to act. In this case, that is not the case. In this case, we are now in a position where we are basically facilitating the division of the administrative branch. We, this body, is going to create this division in pay because we have said that the main thing is that we get half of these positions their raises, then we are okay. I am not comfortable with that. The Mayor talked about the Council's raise back in 2008, and that was done at the time where the Salary Commission dictated the pay and the Council never had to approve it. It was a three thousand dollar (\$3,000) raise. It was a three thousand dollar (\$3,000) a year raise for the Councilmembers. In this case, the raises are significantly higher. What is really troubling, and I think Councilmember Kagawa who talked about our County Clerk. Our County Clerk runs the legislative side of this government. She runs. She is like the Mayor of this side of the street.

She runs the Office of Council Services. She runs Elections. To say that she is in the bottom tier, that is an insult, and that goes to the Salary Commission. Insult. I am not going to comment on any of the other positions because I do not have the expertise in all the other positions because that is the Mayor's *kuleana*. I respect the Mayor for being here today and fighting for his people, but it was the Salary Commission that put us in this predicament by splitting up this Resolution and removing the Council. We disagreed with you, Council, from your last discussion, but let us split them because half of something is better than all of nothing. That was their mentality. Let us go find out where the Councilmembers are comfortable and then we will create a situation where one (1) will pass and one (1) will not. I do not know how the Mayor deals with this in the morning when he has his meetings. I do not know how the Mayor is going to deal with this when people come up and say, "What is up, Mayor? Do we not deserve a raise? They deserve a raise, but we do not deserve? The top half, five hundred thousand dollars (\$500,000) deserves, the bottom half, the little peanuts, no?" "Oh no, go talk to the Council. They cut your pay." That is what is going to happen because that is the fact. The Mayor came up and said, "I want to pass it all." Pass it all. I respect that. We, the Council, is going to say, "No, Mayor, we know better than the Commission. We know that we are going to give you something in the spirit of collaboration or whatever it is. We are going to give you five hundred thousand dollars (\$500,000) worth and the martyrs in this case will be these positions here, the seventy-seven thousand dollars (\$77,000) total of increases that we are going to kick out so that we can feel good about not spending a lot of money." Seventy-seven thousand dollars (\$77,000), but we said okay to the five hundred thousand dollars (\$500,000). Is this political? Absolutely political. Are they going to come back next month again in two (2) more weeks and say, "Hey, let us try it one (1) more time. Let us put the other half in. Let us try again and again and again, and maybe we will get it passed at some point. Maybe they are going to be disgusted with us coming up all the time and they will pass it." You got one (1) shot, and that shot came and went. Then the Salary Commission for whatever reason decided to try and figure out a way to at least get the higher paid people a raise. Wow. Is this political? Absolutely. Councilmember Kuali'i asked the Mayor a question about has he ever had problems recruiting or retaining, and the Mayor's answer was not to address that question. It was to talk about his prerogative to appoint who he wants and that is entirely his prerogative. I have been here a long time, except for a few occasions where we had problems hiring, there has been no problems. There is always going to be people leaving for greener pastures, but as far as hiring, there has never been a problem. Every Mayor has done extremely well appointing people to these positions. I do not buy the problem with the salaries, or recruiting, or retention. That is not an issue. It is not a crisis that we have to address, in my opinion. My light is going to turn red. I am going to be consistent with my vote as well. It is unfortunate that result will be that bottom tier does not get the raises. With that, roll call.

The motion to reject Salary Resolution No. 2016-3 in its entirety was then put, and carried by the following vote:



FOR MOTION:	Chock, Hooser, Kagawa, Yukimura, Rapozo	TOTAL – 5,
AGAINST MOTION:	Kaneshiro, Kualii	TOTAL – 2,
EXCUSED & NOT VOTING:	None	TOTAL – 0.
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Sato: Five (5) ayes.

Council Chair Rapozo: This might be a good time to take a ten (10) minute caption break.

There being no objections, the meeting recessed at 10:01 a.m.

The meeting reconvened at 10:16 a.m., and proceeded as follows:

Council Chair Rapozo: Can we have the next item, please?

#### LEGAL DOCUMENT:

C 2016-104 Communication (03/24/2016) from the Director of Human Resources, requesting Council approval to indemnify the Board of Trustees of the State of Hawai'i Deferred Compensation Plan for Part-Time, Temporary, and Seasonal or Casual (PTS) Employees of the County of Kaua'i, to offer an alternative retirement plan for qualified employees.

- Memorandum of Understanding for the Deferred Compensation Retirement Plan for Part-Time, Temporary, and Seasonal or Casual Employees of the County of Kaua'i

Councilmember Kagawa moved to approve C 2016-104, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion? Councilmember Kagawa.

Councilmember Kagawa: I have a question. Again, if someone who has the expertise in these documents could provide in layman's terms, a brief description of what this does?

There being no objections, the rules were suspended.

Councilmember Kagawa: What does this do, what does this accomplish, and why do we need to approve it?

JANINE M.Z. RAPOZO, Director of Human resources: Good morning, Janine Rapozo, Director of Human Resources. What this does is right now our

short-term and temporary or casual employees do not have any type of deferred compensation plan. They do not contribute to our Employees' Retirement System (ERS). Right now, all they have is social security that is taken out. So what this plan does is instead of taking out social security for them, there is an Internal Revenue Service (IRS) approved plan that you can participate in, whereby instead of having their six point two percent (6.2%) going to social security, we would be taking out seven percent (7%) that goes towards the deferred compensation plan that an investment company would invest for them, and should they leave County employment, they actually can have access to it. Most of these employees are our summer hires or eighty-nine (89) day contracts. Part of the reason for doing this as well from the County's standpoint is by not having to pay social security, the employer's portion of social security would be reduced. We are looking at about a sixty-five dollar (\$65,000) savings on the social security side.

Councilmember Kagawa: If I can, Council Chair?

Council Chair Rapozo: Go ahead.

Councilmember Kagawa: How much more labor time is this going to take in the Department of Human Resources or other personnel employees in the various departments that employ these causal or part-time workers?

Ms. Rapozo: What is going to happen is when they first get employed with us, during new-hire orientation, they would just fill out a form and it would go to the insurance company who would work directly with them as far as...instead of going to social security, their funding would go to this insurance company to invest for them. It is really no additional work. It is just a matter of changing where that money would go to.

Councilmember Kagawa: It is very insignificant accounting-wise also?

Ms. Rapozo: Very insignificant, yes.

Councilmember Kagawa: For payroll accounting?

Ms. Rapozo: Yes.

Councilmember Kagawa: Thank you, Chair.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: Just one (1) last quick one. In the letter it says it allows employees to opt-out of contributing to social security. So we are creating this second option, if you will, with the deferred compensation and employees still get to choose?

Ms. Rapozo: No. This would be mandatory that the employees go this way. The opt-out is for the County to provide this program. Instead of doing social security, you can do this deferred compensation plan.

Councilmember Kualii: The County's position is the seven percent (7%) is higher than the six point two percent (6.2%)?

Ms. Rapozo: It actually works out the same because what happens is it lower your gross income, so the seven percent/six percent (7%/6%) actually works out to about the same take home pay for that particular employee.

Councilmember Kualii: The advantage to these employees is that they can take it with them when they go and they do not have to wait until they retire?

Ms. Rapozo: Right.

Councilmember Kualii: Okay. Thank you.

Council Chair Rapozo: Are there any other questions? If not, thank you very much.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Further discussion? Councilmember Chock.

Councilmember Chock: I just wanted to thank the Director of Human Resources for following through on this. I know it is an idea that has been around that we have been talking about it for some time, and I know how difficult it is to create these systematic changes. I do believe that there are other cost-savings benefits that are out there we should continue to look for, and I am hoping that this is one (1) step forward in doing so. Thank you.

Council Chair Rapozo: Thank you.

The motion to approve C 2016-104 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

CLAIM:

C 2016-105 Communication (03/04/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Irvin Y. Ching, for damage to his property, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Kualii moved to refer C 2016-105 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Is there any discussion? Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2016-105 to the County Attorney's Office for disposition and/or report back to the Council was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item.

#### COMMITTEE REPORT:

#### PLANNING COMMITTEE:

A report (No. CR-PL 2016-02) submitted by the Planning Committee, recommending that the following be Received for the Record:

"Bill No. 2609 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO HOMESTAYS,"

Councilmember Kualii moved for approval of the report, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

#### RESOLUTION:

Resolution No. 2016-39 – RESOLUTION ESTABLISHING CROSSWALKS, STRIPED PEDESTRIAN WALKWAYS, AND INTERSECTION MODIFICATIONS ON WAIKOMO ROAD, KŌLOA DISTRICT, COUNTY OF KAUAI: Councilmember Kagawa moved for adoption of Resolution No. 2016-39, seconded by Councilmember Kualii.

Council Chair Rapozo: Is there any discussion? Councilmember Kagawa.

Councilmember Kagawa: If we can have the Department of Public Works please provide a brief description or a map, if possible, so that the public knows exactly where these crosswalks, striped pedestrian walkways, and intersections modifications are on Waikomo Road are being done? As always, it is nice to have the public know exactly where we are doing things prior before they just are just done and then they say, "Oh, we did not know."

There being no objections, the rules were suspended.

LYLE TABATA, Acting County Engineer: Good morning, Councilmembers, Council Chair Rapozo, and Vice Chair Kagawa. Lyle Tabata, Acting County Engineer. We are bringing forward this Resolution in an effort to create a safer environment for, in particular, our youth and our pedestrians who traverse this roadway from Kōloa Town to get to Po'ipū Road, and in particular, students who come from the housing immediately surrounding the area of these roads to get to Kōloa Elementary School. Michael Moule, the Chief of Engineering, has prepared a presentation, and I will turn it over to him.

MICHAEL MOULE, Chief of Engineering: Thank you, Council Chair and Members of the Council. I am Michael Moule, Chief of Engineering. You have the Resolution itself, which includes nine (9) sheets of Exhibit "A," which shows in a fair amount of detail exactly what is being shown. We are not presenting those images in this presentation. We do have them on the computer if you want to see those on the screen as well, but you have those in paper format that were submitted to you with the Resolution itself. It is attached as part of the Resolution as Exhibit "A" which is nine (9) pages showing details of this. This presentation is essentially the exact same presentation we gave at the last public meeting on this. In the transmittal that we sent to you, we talked about the public involvement process on this. There was an initial public meeting. After was conceived by the Safe Routes to School Task Force and I will let Lee Steinmetz talk about that in a moment, there was an initial public meeting in January 2014. I personally was not involved in that. I arrived at the County a month after that. Then, on June 23, 2015 we had a final public meeting to go over the final concept. The concept was changed over time based on those meetings and discussions with the public.

*(Councilmember Yukimura was noted as not present.)*

Mr. Moule: At this time, I am just going to give Lee Steinmetz a moment to talk a little more about the history of how this project was conceived and developed with the Safe Routes to School Task Force and members of the Kōloa community.

LEE STEINMETZ, Transportation Planner: Thank you, Michael. I am Lee Steinmetz, Transportation Planner with the Department of Planning. I just wanted to point out that this is Kōloa Elementary School's main Safe Routes to School route, particularly for walk to school days. This is just an example of the number of people who use the route when we do have a walk to school day. This really prompted us to think about how we can make this safer for people using it. Of course we are not going to get this quantity on a daily basis, but how can we make this safer because this is a main route of walking to school. The start of the process was with the Safe Routes to School Task Force, which we met with to discuss some options and how we might do this. We developed design alternatives through that task force and then we took it to the community through the Kōloa Community Association. We also did a survey that was distributed by some of the community members to the residents in the area. So really, that is all I want to say for now. If you have any questions, we would be happy to answer them.

Council Chair Rapozo: Are there any questions? Councilmember Chock.

Mr. Steinmetz: I am sorry. I just meant questions about the community process. Michael was going to go through the plans just quickly for you.

Council Chair Rapozo: Okay. Go ahead.

Mr. Moule: Thank you. Sorry we lost our images for a moment. Here is the map of not all of Kōloa town, but the portion of Waikomo Road, which shows a lot of Kōloa Town. You see the three (3) areas. This is the third slide that you have on the first page. Different designs have been proposed to the three (3) areas here, which are detailed again, in the actual Resolution and in Exhibit "A." I will go from top to bottom on this image from north-south, *mauka* to *makai*. The first portion, the green portion, of Waikomo Road from Kōloa Road to Weliweli Road is currently twenty-four (24) feet wide overall, and the proposed design here, as you will see in a moment, keeps the twenty-four (24) feet of pavement, but marking a pedestrian path adjacent to that narrowing the travel lanes for motorists, but is still two-way. The rest of the road from Weliweli Road to Po'ipū Road is approximately eighteen (18) feet in width currently. It varies a little bit in some places, but generally that is what it is. For Section B, we are looking at a two (2) way traffic remaining in the section with a kind of unique design, which I will go through in just a moment. Then the last section of Waikomo Road from Kapau Road to Po'ipū Road is proposed to be one-way in the westbound direction towards Po'ipū Road from Kapau Road.

I am going to go through the next several slides here showing how the different design looks in picture format. Again, in the Resolution map that we attached to the exhibit, it shows it in more detail how that is laid out. We are going to focus again, on the first portion here, a twenty-four (24) feet wide from Kōloa Road to Weliweli Road. Here, the plan is to take existing twenty-four (24) feet, mark an eighteen (18) feet wide travel way for two-way traffic and a six (6) feet striped shoulder to designate

an area for people to walk in both directions between Kōloa Town...the downtown sort of Kōloa Town where all of the shopping is, the bank, and Big Save to Kōloa Elementary School. It is pretty straight forward here. It is just a narrowing of the travel lands similar to the travel lanes that we have on streets all over Kaua'i.

The next segment is the segment from Weliweli Road to Kapau Road. Again, eighteen (18) feet existing. We proposed to leave this two-way with a very unique and different layout here. We originally proposed for this whole segment to be one-way from Weliweli Road to Po'ipū Road, but with work with the community meetings, there was concern for the residents of the two (2) side roads, Kapau Road and Puni Road, about how that would change their circulation patterns and their cars around. So what we have proposed here is to change this eighteen (18) feet to a twelve (12) feet two-way travel lane, which if course two (2) cars cannot fit side by side in twelve (12) feet, and a six (6) feet marked pedestrian lane or shoulder with a dashed stripe. There would be some signage that we have not exactly figured out exactly what the signs are going to say at this point, but signs would indicate that motorists who are traveling towards the camera in this image, would need to move into the pedestrian lane, yielding to pedestrians, in order to allow oncoming cars in the other direction.

*(Councilmember Yukimura was noted as present.)*

Mr. Moule: Keeping in mind that given the fact that the last bit of the road would be one-way towards Po'ipū Road, the vast majority of cars on this portion of the road would be, in this image, on the right side going away from the camera and there would be an occasional car that wants to get out of the neighborhood, people who live in the neighborhood or use this area, they would have to move over for oncoming car. So that is the proposed design in that location.

Then for the last segment between Kapau Road and Po'ipū Road, the proposal is for a one-way with a similar cross-section. We have actually marked the striped shoulder wider in this case given the fact that it is one-way as opposed to a two-way, and the stripe is solid stripe instead of dashed stripe. So it would be a one-way travel lane. We would have arrows on the pavement, especially at first, to remind people of that with the pedestrian lane on the *makai* side of the road. The pedestrian lane would stay consistently on *makai* or south and eastside of Waikomo Road.

Lastly this is just showing the existing aerial image of the intersection of Po'ipū Road and Waikomo Road, and what we are proposing to do at that intersection with the pedestrian walkway as it comes to the intersection. There are a few parking spaces for businesses here at the corner, and so vehicles would be able to come in to use the parking spaces and get back out to Po'ipū Road, as you can see, with this little loop or a U-turn area, and pedestrians would cross that small amount of traffic making that little movement there. Then, there would be two (2) pedestrian crossings where there is currently a pedestrian crossing actually, along Po'ipū Road at Waikomo Road. That is last of the slides. Again, if you want to see this in more detail

and look at how this is laid out for the rest of the road, we can bring up the portable document format (pdf) of Exhibit "A," which is attached as part of the Resolution, and so we can see that in more detail if you would like to see that.

Council Chair Rapozo: Just real quick couple of questions. What is the County's standard for a two (2) lane road as far as width? Is there a County standard?

Mr. Moule: Yes. We have various width standards for roads.

Council Chair Rapozo: What is the standard?

Mr. Moule: We typically require for most roads the total edge-to-edge for an uncurbed road is twenty (20) feet. So that is where you have both sides with grass and other obstructions that might be in this area. In this case, one (1) side would be grass and it would be striped.

Council Chair Rapozo: Section B where you only have a twelve (12) feet travel way for the vehicles, is that up to County standards?

Mr. Moule: Again, you would not have a situation where two (2) cars try to fit in that space.

Council Chair Rapozo: That is not what I asked. I asked if it is up to County standards. If somebody came to build a subdivision or whatever, would we allow a twelve (12) feet two (2) lane road?

Mr. Moule: The total width of the road being twelve (12) feet, no we would not. The total width of this road is eighteen (18) feet, not twelve (12) feet.

Council Chair Rapozo: But you are saying that the standard is twenty (20) feet?

Mr. Moule: The typical standard for a typical residential street, there are some exceptions for agricultural roads that are narrower. For residential streets, which is the smallest level besides agricultural roads, it is twenty (20) feet edge-to-edge. This road is currently eighteen (18) feet edge-to-edge.

Council Chair Rapozo: So it is not up to the typical standard?

Mr. Moule: The eighteen (18) feet is not up to our current standard for a twenty (20) foot road, that is correct.



Council Chair Rapozo: Okay. Then the second question, in community process, were there concerns about Section C and making that a one-way road?

Mr. Moule: There have been...again after the first proposal, which was to make the entire lane from Weliweli Road to Po'ipū Road, there were concerns about the one-way. This changed to make that middle portion two-way, took away most of those concerns. Our understanding and in talking to the members of the community who went door-to-door to talk to the residents, some of the residents of that portion of Waikomo Road between Kapau Road and Po'ipū Road did express concerns over the one-way.

Council Chair Rapozo: They did?

Mr. Moule: Yes, but much more residents preferred the one-way than opposed it. So there are some residents that would prefer it not to go one-way. I am not going to say that everyone approved.

Council Chair Rapozo: I think Waikomo is used...I mean I use...let us say you are at the neighborhood center and you want to get to Po'ipū. If you are coming from Po'ipū and you have to get to the neighborhood center, that Kōloa-Po'ipū intersection is a bad one by the service station. That is where we get the most problems and the most complaints, the traffic backs up. But what we are doing with this one-way now is you are taking the traffic that typically would go on Waikomo Road, let us say to get to Weliweli Road, and you are now forcing them to go through Po'ipū adding to the problem at the intersection of Kōloa-Po'ipū. I am not sure if the consultants or whoever designed this took a look at that. We are now removing, what I consider a pretty major...Section C from Kapau Road to Po'ipū Road on Waikomo Road, that is a pretty heavily used road both ways.

Mr. Moule: It is. The answer I would give to that is that the movements that would...one (1) of the reasons, there are many reasons why we recommend one-way in this direction if it is going to be one-way is because the movements that you would need to make to go around essentially, are all right turn movements, which have much less effect on roadway capacity and congestion than left turn movements. So if you are trying to get from the school to the neighborhood center for example, or you have come from Po'ipū and you are coming up Po'ipū Road and you are trying to get to the neighborhood center, you would continue into town and make right on Kōloa Road and a right turn on Weliweli Road, and you are at the neighborhood center. It is more distance. It is not a significant longer distance, but those are all right turn movements. It adds more traffic at the intersection, there is no doubt, but it is...

Council Chair Rapozo: But Po'ipū to Kōloa is not right turn only. That is the problem at that intersection, that thing backs up for the people that want to turn left.

Mr. Moule: You mean coming out of Waikomo Road?

Council Chair Rapozo: No, coming out of Po'ipū Road to Kōloa Road by the gas station.

Mr. Moule: Right.

Council Chair Rapozo: So that is why I use Waikomo Road, because I do not want to deal with that. If I am coming from Po'ipū and I have to get to wherever, I will use Waikomo Road because I do not have to deal with the intersection by the gas station. Now this is going to push all of the traffic to that intersection that we know is problematic. We know that today, and it is not getting any better. Anyway, just an observation. I was just curious as far as what the community's take on it was. I do not live there, but I go there quite a bit. I am just curious.

Mr. Moule: I agree, it adds traffic at that intersection, which at times has some congestion especially during school arrivals and dismissals. That is something that needs to be considered as far as whether this is...

Council Chair Rapozo: And the idea is...

Mr. Moule: We think that is it not significant enough. We still brought it to you because we feel that is it reasonable.

Council Chair Rapozo: Yes I understand, and that is what we have to do now. The idea of this project is to address the kids walking to school, and that is the busy time of that intersection. We are saying that this is the busy time. We know that the impact that we want to create this change the behavior of kids walking to school, so that is the busy time for that intersection in the morning, the Kōloa-Po'ipū. I do not know. I do not know what the traffic counts are. I am not sure it was done for the morning traffic. I do not know how many cars use Waikomo Road on Section C in the morning, that will be forced to now go on to Kōloa/Po'ipū. That is just my first blush.

Mr. Steinmetz: If I could maybe just add something to that. I think the point you bring up is well-taken and something we are looking at. Kind of what you are describing is through traffic trying to get through, and what we were trying to do through this design is prioritize the local traffic and especially the neighborhood walking, both for Safe Routes to School, but also people that live in that neighborhood that may want to walk up to town to Big Save or to the hardware store. We got a lot of comments that people just do not generally feel safe walking on the street right now. So what we were trying to do is shift that, and you are right, there are some impacts to the intersection, but have the through section use the main roads and let Waikomo Road serving more local traffic. This was something that was discussed at the community meetings, and the preference...again, it was not unanimous by any means, but the preference of the majority was to make these

changes so it is safer for kids to be able to walk to school and have that be a higher priority than through vehicle traffic.

Council Chair Rapozo: Councilmember Kagawa. Oh, I thought you had your hand up. Councilmember Chock.

Councilmember Chock: Thank you. Thank you for the presentation. I used to walk to school on this road, but my concern is about signage, especially in the one-way section as I was looking up here. For a typical driver who would want to short-cut...where is the signage here that says that you cannot go this way now, especially with the oncoming pedestrians right in that lane?

Mr. Moule: We are not showing signs layout in the Resolution itself because generally speaking, we want to have some flexibility to be able to add more because if we show exactly where signs would go, it becomes a little problematic to modify those in the future, but we would have a sign. At a minimum, you would have a sign at each end of this one-way area. I think what our plan right now is to use signs right in this area, something right out on this road here, which would show here you would have this one-way, and then you have another sign here in this vicinity showing one-way for this portion of the road. Then, at the other end down at Kapau Road where it is not quite so important because they can still go that way, you have a one-way street sign as well. But our real focus would be, see this pavement marking here, it would to put those fairly frequently especially at the beginning of the project to remind drivers, even when they are coming out of private driveways, that it is a one-way road. Over time, we may not maintain all of the markings if we are putting them frequently because we are planning to put them more often than normally for one-way street, but that is the idea. Honestly, drivers see markings in some ways better than they see signs because they are focused on the road itself when they are driving, so they miss signs. We are going to use signs at least at each end and maybe a sign or two (2) in the middle, but definitely markings very frequently. Honestly, this is an older image, but we are looking at putting in markings right in this area, too. Again, we are not trying to represent exactly every marking on the Resolution, but our plan is to increase markings. In fact, that was a comment that came to us from the Police Department. I think we mentioned that in the bottom of our transmittal; that they were concerned...actually, the very same concern that you just brought up about drivers not understanding especially at first. So we feel strongly about putting a lot of markings in anywhere, wherever someone turns out of the road, they essentially can see a sign.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. How much is this project going to cost?

Mr. Moule: We are not yet to the point of the cost estimate for this. The money for this comes out of the operating budget for the Roads Division that is approved for restriping projects like this.

Councilmember Kagawa: Do you not have a ballpark figure?

Mr. Moule: We do not yet. We are about to do the cost estimate because we are working on drafting the information for bidders right now for bidding the restriping effort on this. So the final cost estimate will be part of that, and we could bring that to you at another meeting. Deferring this is okay. We do not need this to pass today.

Council Chair Rapozo: I was going to suggest that we defer it anyway. We do not have any idea at all, zero (0)? Okay.

Mr. Moule: Off the top of my head, I do not. We did run some early numbers, but unfortunately I did not bring that with me and I do not have my laptop with me today, so I cannot pull that up. We will be able to bring that to you at the next meeting for sure.

Councilmember Kagawa: As far as we know, how many pedestrian-vehicle accidents have happened on these improvements? Do we have any numbers over the history of all of these improved areas of how many pedestrian-vehicle accidents have occurred?

Mr. Moule: We have a list of the most recent five (5) years of crashes that we can easily access. I have looked at that for Waikomo Road and I will double-check before next meeting, but I do not believe there were any pedestrian-vehicle crashes in that 2007 or 2011 timeframe. In addition, we could ask the Police Department to dig deeper into a longer period of time. It is a larger effort for them to do that, then the simple one that we can do. If that is something that you desire for us to do, we could ask them for that for the next meeting. But I cannot promise it because it is not our department that looks that up.

Councilmember Kagawa: Did we do any anonymous observations in the morning or afternoon on the total number of children that use that entire improved area to walk to school or from school to home?

Mr. Moule: We have not done counts on a typical day. We have counts from walk to school day.

Councilmember Kagawa: Walk to school day is not a typical day.

Mr. Moule: Absolutely not. I agree. We have not done counts. We do observe people walking on this road on regular days, not just walk to

school days. An actual count though, those are very labor intensive. We can do them, but we have not done them in the various places.

Councilmember Kagawa: I am just saying just one (1) day go look and count. It is not Rocket Science.

Mr. Tabata: Councilmember, what prompted this is walk to school day and the parents want this. They are the ones who came to us to do something about it, so we are doing something about it.

Councilmember Kagawa: I understand that, but information...

Mr. Tabata: They will then get their children to walk to school if we make the facility safer for them.

Councilmember Kagawa: I understand that. I am just saying information is always helpful. Are you against information?

Mr. Tabata: That is the information. That is the information I am telling you that we, in the Safe Routes to School Committee, hear time and time again from the whole island and participating schools, that if we fix the facilities, the children will walk.

Councilmember Kagawa: Okay, changing the subject. I looked at Section B where Mr. Blake is standing, and I see some stress fracture on the road. Are we planning to paint those lines and the men or are we planning to repave and then do the painting?

Mr. Moule: The plan at this time would be to repaint the road as-is. This road, like all roads, are being evaluated by the Roads Division for resurfacing. If this Resolution passes, we would repaint in the near term before resurfacing, and then it would be repainted again after the next resurfacing like every other road where we restripe it with the markings that are there, if that makes sense.

Councilmember Kagawa: Are we going to look if resurfacing is deemed necessary in the near future to resurface before we paint?

Mr. Moule: This road is not within the next couple of years at least that I have received from the Roads Division. We can certainly look and see on their list. I personally do not track them beyond the next year or two (2), in the Engineering Division. We can provide that information as well, and see where this roughly speaking would be on the resurfacing list. I know this road very well. I live in the Kōloa-Po'ipū area and my son walks to school now, not just this year, but long after we started developing this project. I have traveled this road and while there are some cracks in it, it is in much better shape than many roads in County. In

fact, I suspect that this road may be one road that the Roads Division is planning to slurry seal next rather than resurface, but we can look into it and find out.

Councilmember Kagawa: How many members from the community actively participated when we told the community that this year what we are showing the Council now, is the plan, and we decided that this is the plan? How many members from the community were at that meeting and agreed with you?

Mr. Moule: So we had the meeting...that would be the June 23, 2015 meeting where we had twenty (20) to thirty (30) people attend.

Councilmember Kagawa: Twenty (20) to thirty (30). Okay. That is all for now. Thank you, Chair.

Council Chair Rapozo: Councilmember Yukimura, Councilmember Kualii, and then Councilmember Kaneshiro.

Councilmember Yukimura: Thank you very much for these efforts. I did participate in one (1) walk to school day, and it looks like slide 2, is what I remember. I do not know if it was the day I was there, but that is how it was when a lot people wanted to walk to school. I appreciate the efforts to try to make it safe. Just a couple of preliminary questions. Your fourth slide, which is the photo, no seal means no center line?

Mr. Moule: Yes, no center line. Correct.

Councilmember Yukimura: And none of these roads are going to have center lines?

Mr. Moule: Right, we would propose not having a center lines on any of these roads.

Councilmember Yukimura: Okay. The issue of Kōloa-Po'ipū Road congestion, do we have any counts or assessment of that intersection to tell us that it is a problem? Since the western bypass was built, I presume it is less than it used to be, but are we monitoring that road?

Mr. Moule: We have not done specific counts with respect to this project. There have been some Traffic Impact Reports (TIRs) that would have addressed this and we can look that up and bring that information back to you. My recollection having reviewed TIRs in this area in the past is that there was not significant levels of congestion in this area like we are experiencing in other areas of the island. One (1) more follow-up on the center line issue, we would still put center lines approaching intersections as we typically do.

Councilmember Yukimura: Okay. The Kōloa-Po'ipū Circulation Study might have some data that is maybe six (6) years, or seven (7) years, or even more, but there may be some data. I cannot remember if the western bypass was already built. Certainly, there is that cross street that eventually has to open up that would help too, right? I think we should be concerned whether we are going add more congestion there, but I would like to know what the baseline is right now. Then what concerns me is your last photo, which is that intersection of Waikomo Road and Po'ipū Road. It looks like kind of a safe haven, but only by markings rather than by curbs. Is that what it is?

Mr. Moule: Not entirely. There is an island already there. There is already a landscaped island there that we would need to put the walkway through. Some of it might be striping. It is hard to see in the aerial image from the previous slide.

Councilmember Yukimura: Do you have any plans for these plastic posts?

Mr. Moule: Yes.

Mr. Tabata: We have pinballers already established.

Councilmember Yukimura: What are they called?

Mr. Tabata: We call them pinballers.

Councilmember Kagawa: Pinballers. Are they like the one that is right in front of the Kaua'i Humane Society on Kaumuali'i Highway?

Mr. Tabata: Yes.

Councilmember Yukimura: That is what is called pinballers?

Mr. Moule: In the final design for this, we would determine how much of that is landscaped and landscapable versus removing existing pavement to make that shape. We can put in those flex posts on the edge line there that wraps around for areas that are not landscaped or otherwise sort of protected, so to speak, for pedestrians from cars.

Councilmember Yukimura: Yes. It feels like a child walking down Waikomo Road into that crosswalk that is aligned with Waikomo Road kind of walks right in the middle of a huge intersection. So it a little scary.

Mr. Moule: Yes, it is not all paved right now. There is already a landscaped island here, and we would use that and potentially also do some flex posts around that to delineate that space properly.

Councilmember Yukimura: Okay, and so the cars would only go to the right coming off of Waikomo Road?

Mr. Moule: When they come off Waikomo Road, they can make either a left or right as they can today.

Councilmember Yukimura: Oh, it is like a half roundabout?

Mr. Moule: Sort of. This area here is really just to allow motorists to turn in here, access these parking spaces, back out, and continue to back out this way.

Councilmember Yukimura: Oh, that is scary. That does not feel good.

Mr. Moule: Right now, you have parking here, this is two-way, and this is two-way for cars. They come in this way, they can also come in this way, and come out this way going right, or come out this way going left. This in many ways cleans it up. It is kind of messy right now. People can physically make a left turn from here. We have some flex posts in the median to try to prohibit that, but because they have to make a left into here, it is not quite possible to make it physically impossible to turn out of there. So you see odd behaviors, especially by visitors at this intersection today.

Councilmember Yukimura: Okay, as long as you keep working on that one. As far as the cost, certainly before you come up a ballpark cost would be useful. Is the Kukui'ula fund also available? If you are just taking from your striping fund, it cannot be more thirty thousand dollars (\$30,000).

Mr. Moule: I think the Roads Division budget annually, or the last year, there is one hundred thousand dollars (\$100,000) for Safe Routes to School projects, and that is what we are planning to pull from for this project here. We are anticipating to use the Kukui'ula and other development fund for the Southside as part of the match for the Po'ipū Road project, which will be looking at significant improvements for all users, roundabouts, sidewalks, and bike lanes along Po'ipū Road that came out of a public process three (3) years ago.

Councilmember Yukimura: Okay. Is the one hundred thousand dollars (\$100,000) for Safe Routes to School is from the Highway Fund?

Mr. Tabata: Yes.

Councilmember Yukimura: Okay. I think those are my questions. Thank you.

Council Chair Rapozo: Councilmember Kualii.



Councilmember Kualii: Along the lines of some of the questions of Council Chair Rapozo and Councilmember Yukimura, the intersection at Kōloa Road and Po'ipū Road by the gas station, in putting this plan together where you know you are making that Section C one-way and so inevitably more cars have to use that intersection. Council Chair Rapozo does not get to make his shortcut through the neighborhood anymore. Are you planning any improvements to that intersection? What did you mean when you said, "center lines approaching intersections?"

Mr. Moule: To answer your first...

Councilmember Kualii: Does it have to do with the turning lane going left and it would be a longer turning lane so that you can have two (2) lanes turning in that intersection?

Mr. Moule: At this time, we do not have the maps of the intersection. We did not anticipate the questions like this, but that intersection currently has...as you approach the intersection, there is a lane to make a left turn and there is a relatively short right turn lane. So I would estimate that...and the road is a little extra wide there. There is so much more than this. But I would estimate two (2) to three (3), possibly more depending on how drivers position their cars, cars could be waiting to make a left on to Kōloa Road from Po'ipū Road, and a car could still come up to make the right, which is an easier turn to make because they only have yield to pedestrians and cars coming from one (1) direction, not two (2) directions. As far as the center lines that we are talking about, we do not plan any improvements to that. Any changes to that intersection is part of this project. There are two (2) future projects that might address Po'ipū Road and potentially including the idea of making longer turn lanes approaching that intersection. One (1) is that Po'ipū Road Multi-Modal Project that I mentioned a moment ago. How that intersection is designed has not been finalized yet, but it potentially could clarify what lanes having longer turn lanes because there is potentially room for that. The second would be much longer-term, is the northerly leg of the western bypass, which is still on the books. It is pretty far out at this point timing wise. It is not scheduled for construction any time that we know of right now. So it is at least four (4) or five (5) years out.

Councilmember Kualii: Right. But when you talk about this project, it is still part of a bigger plan, right, as far as the circulation plan?

Mr. Moule: Yes.

Councilmember Kualii: One (1) piece affects the other piece, so we should have an idea of what the plan is for the other pieces. If anything, regarding pedestrian safety and making improvements to the roads kind of impacts the diverting cars away at times, such as making this one-way means less car will go on this road, which means that the people walking will be safer. But also taking into consideration that it is about the high volume during school, going to school and going

home from school. This high volume not only in the pedestrians, but also in the cars, right? How are you addressing that? I was wondering if you looked to getting cars from not leaving the school and heading back that way, but leaving the school another way? Right now, we have that newer road, right, that goes all the way to Ala Kalanikaumaka Street, the bypass, but it does not quite go. It ends right there. There is a little end. I know maybe there an issue of doing a two-way out of that there, but maybe you could least do one-way to get people leaving school to not come back into this area.

Mr. Moule: Yes. There were a few questions in there. If I missed one (1), please ask it again. The last one as far as the road that connects Po'ipū Road and almost gets to the bypass is Pa'anau Road right along the *makai* edge of the school. From what I can tell looking at the past history of the designs of Ala Kalanikaumaka, it looks to me that the original intent was for that road to connect, but in the final design, I think what happened is when they did the last phase of the Pa'anau Village and they extended that road, at that time there must have been a decision made not to correct the road because at this time, the end of Pa'anau Road is probably seven (7) feet or eight (8) feet vertically from Ala Kalanikaumaka. It would make require reconstructing at least one hundred feet (100) or two hundred feet (200) of Pa'anau Road to make it connect. It would also make it very difficult to connect the driveway to the last phase of Pa'anau Village. I would not say that ship has sailed entirely, but even in the Kōloa-Po'ipū Circulation Study...I am sorry, not the Kōloa-Po'ipū Circulation Study. The transportation analysis was done as part of the South Kaua'i Community Plan. That is a different analysis. The South Kaua'i Community Plan drawing does not show that road connecting because of the topographical challenges of making that connection. Personally, I think more connections are better. Street network is a good thing for users so you can get people around, but it would be difficult and expensive to make that connection now because it has now been built with that significant elevation difference.

Councilmember Kualii: Thank you.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: My questions are similar to everyone's questions and might be some follow-ups. Is the Safe Routes to School program a County program?

Mr. Moule: Well, we have a program to do Safe Routes to School. The State has a program to do Safe Routes to School largely using federal funds, and the Federal government has a program for Safe Routes to School. They are parallel programs that sort of work together to do Safe Routes to School, if that makes sense.

Councilmember Kaneshiro: But in this instance, we are only using County money?

Mr. Moule: In this case, yes. We are only using County money because it is a relatively simple and fairly inexpensive restripe. We have applied for and received funds for projects that require more reconstruction using federal funds. We just applied for some recent grants and we have not heard yet on that. We applied for some in December.

Mr. Steinmetz: There is another fund that we might also use for this, and that is our Safe Routes to School Special Fund, which comes from the State through the surcharge on speeding tickets that was passed by the Legislature a few years ago. This is the type of project that we would like to use those funds for where it is a simple striping project, or not that simple, but there is a striping project and there is not a lot of extensive paving and construction work. So that is another funding source, which is the State funding that is given to the County.

Councilmember Kaneshiro: I was thinking anything to do with the schools and safe routes to schools seems like a State thing. I know we got money for Hardy Street from the Federal government, and that was part of the Safe Routes to School.

Mr. Tabata: Councilmember Kaneshiro, we get ten dollars (\$10) for every moving violation outside of the school zone and if it is in the school zone, it is twenty dollars (\$20) for every moving violation that KPD issues. We get some money back from what KPD issues. They do team with us, the Safe Routes to School Task Force, to assist on walk to school days and try to enforce as much as possible as time allows, especially in the school zone areas.

Councilmember Kaneshiro: Okay. Hopefully when you folks come back with cost, you will be able to say whether the County is paying for this or if it is coming out of a special fund that does not cost the County money.

Mr. Tabata: Every year, we put in money for the Roads Division's budget and set aside for Safe Routes to School projects of County money, so we are using that fund to do that. It is a set aside in the Roads Division. Then, we have the special fund, as Lee stated. We also have funds that come to us from the Federal government for the Safe Routes to School projects, and those are primarily for the major infrastructure projects.

Councilmember Kaneshiro: Our first priority would be to use other people's money first.

Mr. Tabata: Right.

Councilmember Kaneshiro: The Federal or the State.

Mr. Tabata: The money from the State from that special fund comes to us once a year, so we have been trying to accumulate it. It is in a special account specifically for that.

Councilmember Kaneshiro: Okay. Then my second question, I know there is a Kōloa Circulation Study and there might be a Kōloa Transportation Plan. How does this relate to that plan? I think in the plan, there was two-way traffic here. Is the plan to have it be one-way all the time or eventually when we start going back to the circulation plan...what is the plan? Are we going to adjust the circulation plan as we go? I am confused on what the direction is.

Mr. Steinmetz: I think maybe it would be good when we come back to present the circulation element of the South Kaua'i Community Plan and how this project fits into it. This project was envisioned as part of that overall plan, and so we could show you what that looks like, what are other connections to the bypass roads, and the Po'ipū-Kōloa Road intersection. We could bring that back and show you the context of this project within the larger circulation plan.

Councilmember Kaneshiro: Yes. I think with the circulation plan...sorry, I did not look at it recently. But to confirm if that was always intended to be a one-way or if it was two-ways, and if we are not following the plan, then what is justification or plan moving forward to keep it as a one-way or to follow that plan eventually as funding comes in or whatever it is.

Council Chair Rapozo: Councilmember Hooser, go ahead. You have not spoken yet. I was just going to say that this is going to go to Committee, and I would suggest that everyone submit their questions as soon as possible so they can prepare for the next Committee Meeting. I do have some questions as well, but I am going to reserve for the Committee Meeting. Councilmember Hooser.

Councilmember Hooser: Good morning. Actually, my inclination is to trust the judgment of these three (3) gentlemen. I certainly do not want to second guess your expertise and experience on the details of the planning. My comments or questions might be questions that the public might be curious about and might be interested in. It seems like this is something we should celebrate and support. If I remember what you just said a second ago, the community is asking for this. Could you expand? How do we know the community is asking for this? What is the process that gave you that conclusion?

Mr. Steinmetz: This really started with our Safe Routes to School Task Force, which going back to your question, that is a task force that really is through Get Fit Kaua'i, but the County participates in that. They have representatives from the schools. We get together and talk about issues and problems that are coming up. Kōloa Elementary School brought this to our attention, as this is our main route to school and we would really like to see what we can do to address making it safer for kids to walk to school along this route. So that was the starting

point, and we brainstormed some ideas with that task force, including the option of making portions of Waikomo Road one-way, which I personally thought the task force would say “absolutely not.” But they were interested in that concept and wanted us to explore it more and take it to the community. The representatives on that task force are representatives from the neighborhood, but are also representatives of the school. Really, the initial idea of this came from Kōloa Elementary School. Anyway, we worked out some concepts through the task force and then took it to the community. We got community comments back and modified it based on the community comments that we got. We have invited some members of community and school to come here. Unfortunately, they were unable to come today, but could certainly try to get them to come to the Committee Meeting so you can hear from them opposed to hearing from us on their perspective of those meetings.

Councilmember Hooser: Did you personally go door-to-door?

Mr. Steinmetz: No, we did not personally go door-to-door. We created a survey and community members, including Mr. Blake, took the responsibility of going door-to-door and gathering that information. From that process...and I do not have the numbers. It was not unanimous, but there was strong support for this based on the input from that.

Councilmember Hooser: Okay, great. I understand that we are not going to make all the people happy all the time, but it sounds like a majority of the community and certainly the school supports this effort moving forward. Would that be an accurate characterization?

Mr. Steinmetz: Yes, I think that is a fair assessment, yes.

Councilmember Hooser: Okay, great. I think the County Administration should be applauded for working with the community and moving forward with this project. I thank you for doing that. With regards to the implementation, safety is probably the biggest concern certainly for myself and for most people. Is there any issues with traffic in terms of speed or the speed bumps? When it is implemented, will there be signage, and will the police be notified to slow people down? Have you thought about that?

Mr. Moule: We do not plan to do any physical traffic calming like speed humps with this project. I think the road is posted, I believe, at twenty miles per hour (20 MPH). Do not quote me on that. It is twenty-five miles per hour (25 MPH) further up near Big Save. I think it is twenty miles per hour (20 MPH) in the last bit, but I could be wrong about that. It is posted at fifteen miles per hour (15 MPH) during school times near the school. I know that much for sure. So adding additional signs that say “slow down,” and that sort of thing is not something we plan to do. We try to avoid doing those sorts of things because they have been shown to not have significant effects on how people drive, just simply putting up signs. So arguably, the restriping, narrowing of lanes, and things would

encourage drivers to travel at the speed limit as opposed to faster, and research does show that restriping can do that, but there is not significant efforts to physically slow people down including with this project.

Councilmember Hooser: Okay. Could you again restate what the appropriate length is? People walking to school, what is the distance we are talking about?

Mr. Moule: I should know this, but I do not have it. I can tell you actually, just give me one (1) moment.

Councilmember Hooser: Okay.

Mr. Moule: It is a little bit more than half a mile all the way from Kōloa Road to the school. The students meet at the bank there on the corner of Kōloa Road and Waikomo Road to do their walk on walk to school day. As far as how far kids walk outside of walk-to-school days, it varies obviously, depending where they live. But I think that the real goal with this project is to increase the number of people who are comfortable with their kids walking to school when they live within that nearby vicinity, especially along Waikomo Road. There is a surprising number of houses on Kapau Road and Puni Road. It does not seem like a large area because there are short streets. But if you look at aerial image, there are a bunch of other houses in that area. Ultimately once you get all the way to Kōloa Road, there is much larger neighborhoods that could potentially walk. How many kids will walk half a mile? It is a little further, but it is still a ten to fifteen (10-15) minute walk, it is a doable thing, and more and more parents are doing that where there are facilitates. That is the challenge. People see a road with just pavement and no sidewalk or anything else, and they are not comfortable letting their kids walk to school on their own outside of that walk to school day. So that is the idea here.

Councilmember Hooser: Okay. Thank you again, for your responsiveness to the community request. Thank you.

Council Chair Rapozo: Are there any other questions?

Councilmember Kagawa: Thank you, Chair. If the Resolution passes, we do all the improvements, and we change two-lane to a one-lane for vehicles, how do we measure success? Do we use the baseline of how many kids are walking now and then once we do the improvements, we will come back and say, "Hey, it was a big success. We doubled our numbers," or do we feel that information is not important and just because we are doing it, it is better?

Mr. Tabata: The Safe Routes to School Task Force queries every school. So we can get that number for the Committee Meeting of how many students do walk to school, how many are dropped off, and how many ride the bus.

Councilmember Kagawa: No. I am specifically asking for the area that we improving.

Mr. Tabata: That is one of the questions that we can ask specifically.

Councilmember Kagawa: Okay.

Mr. Tabata: We can have the school help us by getting that as part of the questionnaire right now, and then we can then query that after.

Councilmember Kagawa: Yes. My question is more like, as we do these improvements, we just did Hardy Street, and we are doing this one. As we expand to more schools, I think it would be nice for the governing body to see, hey, this is what these improvements...

Mr. Tabata: We have the statistics of who walks, bikes, gets dropped off, and rides the bus right now for all the schools who participates.

Mr. Steinmetz: If I could maybe also add to that. Through the Safe Routes to School Task Force, we do a survey every year and this is information that we can bring back that it is not specific to Waikomo Road, but it is the school overall, not on walk to school day, but just on a daily basis, how many people walk and how many bike. We also ask them if you do not do that, what are the barriers that cause you not to do those things? Do you live too far? Do you not feel it is safe? Are cars traveling too fast? So that is something that we track on a yearly basis. We are also just starting this year to do on-street bike and pedestrian counts. We are starting with our Transportation Investment Generating Economic recovery (TIGER) project area to look at as a baseline, how many people are walking and biking now. We want to do that on an annual basis to do exactly what you are saying so we can see if it is increasing as we build the infrastructure because that really is how we should measure success if people are using it. If we build it and people are not, then that would not be successful. The issue that we have that is that is labor intensive because people have to physically stand and count, but we can certainly look at expanding that and looking at where we are doing these infrastructure improvements to also do before and after counts.

Councilmember Kagawa: This is my last question. I noticed in some of these pictures that there appears to be some County rights-of-way abutting the paved road shoulder. Did we look at the possibility of expanding the pavement so that we could accommodate both two-way traffic as well as marked sidewalks?

Mr. Moule: That is a good question. We have not specifically looked at what it would cost on this road. Ultimately, we would prefer a separated sidewalk that is in the right-of-way outside of the paved area. A couple of reasons why in this case we have not done that is first off, we see an opportunity here

to do something in the existing pavement without spending significant capital costs. We are on an ongoing basis doing Safe Routes to School and other projects near schools that require more capital costs, and for those, we typically pursue the State and Federal funds. For example, the Po'ipū Road Multimodal Project will look at improving the walking along Po'ipū Road to get to the other portions of Kōloa Town. Then, the other challenge here is you do have a couple of narrow bridges and culverts, which would make it difficult to continually have that. So without really spending a whole lot of money, and we are talking millions of dollars to widen bridges or hundreds of thousands of dollars to do both bridges would probably be about one million dollars (\$1,000,000) honestly. So you would at least have to bring it in to road surface at that location even if you were able to build a sidewalk outside. As we continually apply for grants from the State for Safe Routes to School, we are always applying for three (3) or four (4) schools each time there is an application every couple of years. Down the road, we may apply for one for this corridor, but we have been doing that at other schools in the recent times and the streets for this school.

Councilmember Kagawa: The two-way bridges can be handled with Olohena Road where we have two (2) yield signs, right, and we have that in multiple areas on Olohena Road?

Mr. Moule: Absolutely. It does not make it impossible. I think there is a reasonable project to spend as opposed to tens of thousands of dollars, which we are looking at for this project of restriping, a few ten thousands of dollars is what I would estimate off the top of my head, to hundreds of thousands to do a sidewalk. There is a reasonable project for hundreds of thousands of dollars for a sidewalk without any bridge touching to do what you are saying, but it is probably ten (10) times the cost of this at least.

Councilmember Kagawa: Thank you.

Mr. Steinmetz: The other thing that we want to look at is a lot of people use that swale for parking. So as we look at widening the road or putting a sidewalk, then we are affecting people's parking. So that was another issue that came up at the meeting that people wanted to preserve the swale. We are trying to balance all of those things in terms of cost, parking, and safety as we look at these projects.

Councilmember Kagawa: That is a great point. Thank you, Chair.

Council Chair Rapozo: Is there any more questions? Again, they will be back in a couple of weeks. Councilmember Yukimura.

Councilmember Yukimura: I just want to be clear as a follow-up to Council Vice Chair, you are going to do baseline analyses, pre and post, on this project?



Mr. Tabata: We can try and get the pre-data from the school via survey. That is the only recourse we have right now.

Councilmember Yukimura: The thing is you have to show that most of the kids who walk are walking on that route if you are going to use it for this project. If they are walking from other places, it is not relevant to this particular project. You keep saying it is so labor intensive to do these counts, so I am asking are you or are you not going to have pre and post data that we can look at to see whether there has been improvements or an increase in the number of people walking?

Mr. Moule: At this time, outside of the TIGER project area that we mentioned a moment ago, we do not have plans to do pre-counts for our other projects. If you look at this a single project, yes it is labor intensive, but it is one (1) project and one (1) count, which is easy enough to do. We have many other projects around the County that we are doing this for, and we are just embarking on this...we have never done manual pedestrian and bicycle counts. We do not do manual car counts general speaking. We do car counts by putting tubes or counter machines out. You cannot do that for this. I do not want to commit to it right now because we have to look at the resources and how that would affect...if we are going to do it for this project, we should be doing it for all. We have to look at how that affects the resources...

Council Chair Rapozo: And that is typically how it works.

Mr. Moule: What was that?

Council Chair Rapozo: That is typically how it works. You expect us to make a decision without that information is kind of difficult.

Councilmember Yukimura: Why could you not turn it into a school project with fifth graders and their parents, and train them and get them to do it like an on the ground...nowadays they are emphasizing project-based learning and have them do that and have them participate in something like that. As a pilot, yes, we want you to do it for all projects, but to begin, you can try a project, work out the kinks, and then maybe apply it elsewhere especially since you are dealing with the school here and there are fifth graders and maybe their parents, or mentors, or the Rotary Club, or somebody who could help do that and turn it into a learning experience. That would be good because we do want to see hard data about the impacts of these projects. Thank you.

Mr. Tabata: Okay. Thank you.

Council Chair Rapozo: Are there any other questions? If not, thank you very much. I know this is a silly question, but is there any public testimony?

Ms. Fountain-Tanigawa: Chair, we have one (1) registered speaker.

Council Chair Rapozo: Okay. Go ahead.

Ms. Fountain-Tanigawa: Matthew Bernabe.

Council Chair Rapozo: Matt Bernabe. I had hoped to finish our agenda by lunch, but that is not going to happen.

*(Councilmember Kaneshiro was noted as not present.)*

MATTHEW BERNABE: Matt Bernabe for the record.

Council Chair Rapozo: Take your time.

Mr. Bernabe: I was just going to point out as a Councilmember Kaneshiro pointed out, there are other coffers of money that participate in this program. I understand about the swales and all of that, and I understand the bridges and what not, but one of the things that I want to point out as living on the eastside is this model that I see up there with the one (1) lane and the stripe on the side, it really looks like Fuji Beach in Kapa'a behind the gas station. I have seen people go backwards on it, I have seen near misses, and the bikes are all over the place. Sometimes you actually have to go so slow that you are crawling through there. Just this morning, I was taking a left return turn from the credit union, and even though we have the bike path by the beach, I could not make my turn because a bicycle blew right through and I had to actually lock on my brakes. That was just this morning. This push to have bicycles go everywhere to me, is a hidden agenda on this because even though there is a walking pedestrian on the path, we all know that this is geared for bikes. That is why there is no sidewalks. Let us call a spade a spade. They do not want the sidewalks because they want this multimodal transportation to prevail long-term. If you took a three (3) feet sidewalks on each side, you would still have a center lane of whatever it is. As parent, that is a lot safer. I am appalled that they take the stance that we do it for this one, then we have to do it for all of them. As the Chair pointed out, that is their job. That is why I am so angry about the roundabout bike path going up to Kapa'a Middle School, that they were not caring about the school, but they care about this school.

*(Councilmember Kaneshiro was noted as present.)*

Mr. Bernabe: Their ways of getting it done is so inconsistent, and they are pushing this agenda. I might go door-to-door on the street and get my own poll. Seriously. I might go this afternoon and just knock on doors this evening. I want to know what the people say. I have friends that live right around there. I am going to ask them myself. I am not from there; however, with all of that said, I have to say that one (1) area of the bells and whistles that I like are the flashing crosswalks. I will praise them for that because that is the one (1) bell and whistle that I like. Other than that, I do not know. Something is fishy here, and I will be following rest of the meetings. Thank you.

Council Chair Rapozo: Thank you, and happy birthday again. Next speaker. There are no more speakers?

NORMA DOCTOR SPARKS: Good morning. I am Norma Doctor Sparks. I wanted to say that I was born and raised in Kōloa. I actually walked to Kōloa along the streets that are being discussed today, and I am very concerned about it. First of all, my husband was asked to teach fifth grade this year by the principal last year, and so he decided to do that. He did not have any idea about any survey about what the school thought about changing the route to the one-way. I think that everything else above the one-way is how we work anyway when we drive that area. When we see a car, we stop, we yield, and whoever goes first, goes first, especially over that little bridge. But I do not think that the neighborhood was actually canvased and I am very concerned about that one-way. I do know if we have to go to the Po'ipū and Kōloa intersection, that it will become more congested, and to have to go through downtown Kōloa is just unbelievable that someone would ask us to do that when there is already so much congestion right in front of Sueoka Store for example, and then at the stop sign going up to Big Save or the post office. Most of the children who go to Kōloa Elementary School are actually above the bank. All of those families would then have to go around and go through the downtown as I talked about, adding congestion throughout that. I think that the idea of having a safe walkway for children is a great idea, but the periods of times that children actually walk to school or back from school is very short compared to the whole twenty-four (24) hours in looking at the uses of those roadways. I would suggest, as Mr. Bernabe just talked about, to also look at sidewalks because with sidewalks, we would actually be able to preserve some of the roads that is being considered to be a one-way. I do know that there is a really good support for children walking; however, there are some unintended consequences and I believe that during the Committee Meeting, we should hear more about those unintended consequences that might be perceived or thought about so that we can have a better plan for Kōloa. I was born and raised in Kōloa, and I intend to live in Kōloa for the rest of my time here. I want to make sure that the people of Kōloa are best served. I do want to make sure that the parents particularly who go to Kōloa are surveyed to see what they think. Thank you.

Council Chair Rapozo: Thank you. Anyone else?

Ms. Parker: Hi. Alice Parker for the record. I walked to school probably a mile and a half and it was not through snow drifts usually. It was on sidewalks, but this was a more urban area. My daughter walked to school, and we mothers or parents had to take turns walking the kids because it was an unsafe area. There was a veteran's hospital and sometimes uneasy minded veterans would be loose and bother the kids. So we had to walk the kids to school and it was about a mile. I do not think sidewalks are necessary, but a marked way, the way that they have it marked there should be sufficient. It is level and as long as it is clearly delineated from the driving part, I think it would work fine. Thank you.

Council Chair Rapozo:  
name for the record.

Thank you. Next speaker. Please state your

SUSAN GLANCE: Susan Glance. I walked this path in front of Kōloa Elementary School a few times since the beginning of the year as I escorted my nephew. They live on Po'ipū Road right across from the Kōloa Missionary Church. It is heavily trafficked during the time that children arrive and when they leave the school. It is heavily used by pedestrians and if you drive your car from Kōloa Road and make the turn on to Po'ipū Road at the Kōloa Chevron gas station, it would be backed up with traffic almost directly after the Chevron gas station. So it is a little...you must be alert while escorting children on foot because I have been bumped this year by a car directly after crossing the street from the school side to the other side where Waikomo Road enters right after I got out of the crosswalk with the guard that stands there. I got bumped by a black car. I had to push the child out of way and kind of give a look to the person because it is pretty obvious that I am there. I just crossing the road. I always think when I walk that with them, I sure wish there was a sidewalk there because hence, sidewalks are for pedestrians. It is nice when they have it all delineated with white paint, but this traffic flow concern that this other lady brought up, that it is going to back up Kōloa Town and the aftereffects is going to have is a real concern. The one side of the road they have sidewalk for part of the way, but the other side, they you do not have it at all. You kind of have to jump down a little foot and a half or two (2) feet cliff thing because there is a topographical difference. If I had to escort my child every day like my niece does, I would be...she is there every day holding that kid's hand, walking that street, and the whole area fills up with pedestrians, children, parents, and the cars. I could really appreciate the issue of concern for safety for people on the road. Thank you.

Council Chair Rapozo:

Thank you. Councilmember Yukimura.

Councilmember Yukimura:  
lives on Po'ipū Road?

Can you restate how...you said your nephew

Ms. Glance:  
Church.

Right across from the Kōloa Missionary

Councilmember Yukimura:  
of Po'ipū Road?

So you walk towards the school on which side

Ms. Glance: Across the road to get to the side where the Kōloa Missionary Church side is because there is a sidewalk kind of starting there, then go down to where the crosswalk is for the school, we will cross there, get up on the sidewalk that lines the driveway, pick up the child, and repeat that path.

Councilmember Yukimura:  
bumped. What do you mean?

When you were walking, you said you were

Ms. Glance: Bumped by a car coming from the traffic circle.

Councilmember Yukimura: Were you a pedestrian?

Ms. Glance: I was a pedestrian and I had just made it through the crosswalk. I was very surprised. Luckily I did not get hurt, but how could they not see me because it was two (2) yards from me, six (6) feet, and then I am staying in the correct area for pedestrians. I think they were trying to maybe make the right turn onto Waikomo Road.

Councilmember Yukimura: There was a physical contact between you...

Ms. Glance: Physical contact on my left hip.

Councilmember Yukimura: Between a car and yourself?

Ms. Glance: Yes, and I have the child.

Councilmember Yukimura: Yes, and you are much...

Ms. Glance: So I am shoving me and the kid to the right.

Council Chair Rapozo: Okay, thank you.

Councilmember Yukimura: You are much more visible than a child.

Ms. Glance: Yes.

Council Chair Rapozo: Thank you.

Ms. Glance: Yes.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Next speaker.

GLENN MICKENS: For the record, Glenn Mickens. Thank you, Council Chair Rapozo. Thank you BC. There has been a lot of talk about striping. I have been trying for years to get Hauiki Road's center striped. I have called bus companies because they have been run off the road by somebody on the wrong side, but there is no line down the road. I have been told by the County engineers that unless a road is twenty (20) feet wide, they cannot stripe it. I do not understand that. In fact, if you go up Loop Road, it is center striped. It is not twenty (20) feet wide. I have measured it. It is seventeen (17) feet to eighteen (18) feet wide. For purposes in the dark and rainy days or nights when people cannot see, you need that center

stripe on the road. Is it or is not it? Maybe Mike can answer that question, whether the road does in fact have to be twenty (20) feet wide before they stripe it. But if that is true, then why Loop Road is striped or even putting a line down the shoulder of the road so you know where the edge of the road is if there are no lights or raining or something. I think for safety purpose, they can do it, but maybe Mike can answer it. Thank you.

Council Chair Rapozo:

Anyone else?

JOE ROSA: Good morning. For the record, Joe Rosa. Again, I hear the so called staff here sitting down. "I think," "I might," and "we wish." It is not really solid evidence that something is really planned. When I worked with the Department of Transportation (DOT) and you wanted a crosswalk in Waimea Town, we had to go out and be there at 6:30 a.m. to see the crossing that they wanted by Cookies opposite of the Waimea theater, and then later one there was a further down by Ishihara Market. Did this office staff get out in the morning and take a pedestrian counts? Those are the kind of things...hey, get the proof that it was taken for one (1) week, not a day or so. The people can say again, "Oh, the children this, the children that," but how many have children that go to school that walk? Those are the kind of things that may appear in a clear blue sky. Secondly, I know I experienced that at the signal light at Papalina Road where I use my judgment on a safety factor to put a highway curb for people making a right turn into the street opposite of the church there. I look at that as a safety thing. I said when we put a highway road and paint it white so the drivers can see it because the drivers making the right turn could sideswipe a child in the open walkaway to go to the road there.

*(Councilmember Kagawa was noted as not present.)*

Mr. Rosa: That is safety devices. Another thing is talk. Talk is cheap, but even like Waikomo Road, why not put the sidewalks? What is the right-of-way there? You have an eighteen (18) feet road, you must have at least thirty (30) feet or forty (40) feet. In the early 1940s and in the late 1930s, there was sidewalks put in by the late-Yutaka Hamamoto and they called in the sidewalks supervisor. They put sidewalks from where Isenberg track is all the way to the old grammar school where the waterworks is. They did it from Puhi until Nohou Road towards the school there. What is it? What are sidewalks for? Not painted stripes on the road when there is no safety factors that protect the children from walking. Those are the kind of things. Talk is cheap. Do something that is going to be there permanently. An eighteen (18) feet wide road, I am pretty sure you have to have at least a thirty (30) feet wide right-of-way and you could put three (3) feet wide sidewalks plus a curb and make it a twenty (20) feet road, which two (2) cars could easily go up and down. Where is your engineering? You hire engineers that are probably not familiar with the area and just go on hearsay...

Council Chair Rapozo:

Okay, Joe.

Mr. Rosa: ...and what they think is the best.

Council Chair Rapozo: Okay, Joe.

Mr. Rosa: Okay.

Council Chair Rapozo: Thank you.

Mr. Rosa: As I say, I think safety comes first.

Council Chair Rapozo: Thank you.

Mr. Rosa: I thank you.

KEN TAYLOR: Chair and Members of the Council, my name is Ken Taylor. One of the worst phrases in the language is "Well, we have always done it this way." Time has come where we need to take back our streets and make it safe for children to walk to school. I think staff has done a good job in analyzing a situation that needs to be looked at and moved forward with. I commend them for looking at the alternatives. We have allowed the automobile to take over our lives and it cannot continue this way. Something has to happen, and we are going to see changes made or recommendations made that are going to be different than what we have seen in the past. I think this is a prime example of one of those changes. I commend the Department of Public Works for looking outside of the box for an alternative. I hope that you will support their recommendation and move forward with this. Down the road, if for some reason it does not work, we can always go back, but it is time that we start looking, analyzing, and doing things differently than we have been doing because what we have been doing has gotten us into a position where we have created problems for ourselves that need to be addressed now, and this is a good way to start that process. Thank you.

Council Chair Rapozo: Thank you. Anyone else wishing to testify for the first time? Second time? I am sorry.

AMALIA GRAY: Amalia Gray. As a parent of a kindergarten and first grader, I live in Kapa'a, so Kōloa Street is not affecting me really. But my son wants to ride his bike to school and people race down this road with no sidewalks, Hau'a'ala, which was just completed. There are areas that are twenty (20) feet that have the line and there are areas that are less than that that and do not have the line. So most of the time, people are going forty miles per hours (40 MPH). Yes it says twenty-five miles per hour (25 MPH), but that is forcing us into the mud and into the overgrown grass where there should be a sidewalk. Maybe if there was a bicycle line that would help. I use the bike path. I know it goes through a residential area and it is effective. It is a little confusing sometimes for people that do not know how to read signs, but for the general public that do, it is very effective and safe. If

this Kōloa one could be initiated, maybe in the future something like that could happen in other school districts like Kapa'a. Thank you.

Council Chair Rapozo: Thank you. Anyone else wishing to testify for the first time? If not, second time?

Mr. Bernabe: Matt Bernabe, for the record. Our kids deserve sidewalks. We should look for the money from other coffers that we already put on record that are collaborative in this effort. The lady that testified that got bumped is a tall woman, you can see her, she is aware of her surroundings, and yet she physically got bumped because we have a lot of cars and we have not kept up with the infrastructure for cars, and at the most critical point that we should also be focusing on not just bikes and sidewalks, but also cars. We have lost that vision. So what happens is you have irate drivers. I see this in Kapa'a all the time, finding alternative routes through either the marketplace or wherever they can get ahead of the person that is holding them back. That is why the lady got bumped, because the person had some where to be and they were not going to be there in time. Not enough time on the road. We are wasting our time driving. If you want to make the argument that this is an economic thing for families because the more time we spend on road is less money we make and the more money that we spend. Sidewalks. These people need to go back and look for some funding. If swales is their biggest obstacle for driveways, how does Honolulu have sidewalks? I see houses all throughout Honolulu and they have sidewalks. Look, I know for a fact that drivers make mistakes. If there is not a clear different curb there, you might have a recipe that is not going to be nice. I do not want to be on the news, Kaua'i's walk path. Front page. I just think that if at the heart of the discussion and if it is all about the kids and their safety is at the top tier, then why are we trying to go the cheapest route? Why are we trying to buy the cheapest car seat? We should be buying the best one. I think sidewalks are it.

Council Chair Rapozo: Is there any further discussion?  
Councilmember Yukimura.

Councilmember Yukimura: I am presuming that we will refer this to...

Council Chair Rapozo: The Public Works / Parks & Recreation Committee.

Councilmember Yukimura: Public Works / Parks & Recreation Committee?

Council Chair Rapozo: Yes.

Councilmember Yukimura: Okay. I think...

Council Chair Rapozo: That would be my suggestion.



Councilmember Yukimura: Yes. I am the Housing & Transportation Committee Chair, it could come to mine, too. It is a multi-modal project, but I do not mind.

Council Chair Rapozo: Whatever you folks want.

Councilmember Yukimura: I do not mind if it comes to the Housing & Transportation Committee.

Council Chair Rapozo: Whatever you folks decide is fine with me.

Councilmember Yukimura: Okay, and I do not have any more discussion. I think there has been a lot of discussion through our questions and answers, and the Department of Public Works is going to be getting more information. I am ready to refer it.

Council Chair Rapozo: I know the motion was to approve, so we need a withdrawal of that motion.

Councilmember Yukimura: No, the motion to refer has precedence, I believe.

Council Chair Rapozo: Okay. Councilmember Hooser, did you have comments?

Councilmember Hooser: Just brief comments. I would support referring it to the Housing & Transportation Committee also, if the Chair is requesting it. There is a lot of talk about sidewalks and I just wanted to point out that what is in existence now is an unsafe situation for children to walk, and the plan presented makes it safer. Ultimately, if the community wants and there is sufficient funds available, we can certainly put in sidewalks, but it is a much larger project, much more expensive, and much more long-term. In my opinion, this would from what I know about it, makes this situation significantly safer than it is now and it gets an important point out, that sidewalks may or may not be in future, but this could be considered an interim step or it could be considered a permanent step, but it will ultimately make the situation safer. Unlike sidewalks or curb and gutters, this could conceivably be changed. For example, the one-way configuration resulted in impacts that were not foreseen. The decision could be amended. I think it is a good step. Again, I commend the Administration and the department for working with the community. I think it is very inspirational, actually, that the so-called government bureaucrats met with people in the community, met with the school, and worked together to find solutions, and then move forward to implement the solutions. I am looking forward to supporting the effort as we move forward. Thank you.

Council Chair Rapozo: Anybody else? If not, before we entertain the motion, I do have some questions. I think Mr. Taylor recommended that we approve

this and that we need to think outside of the box. Although I agree, I think for us to act on a matter that we have no idea how much it will cost, no traffic counts were taken, we do not know what the unintended consequences will be at Kōloa-Po'ipū Road, I think it is unfair to ask us to prove it. That is not thinking outside of the box. That is rolling the dice and hoping that it works. That is not what we do. I do not even now...no ballpark figure.

*(Councilmember Kagawa was noted as present.)*

Council Chair Rapozo: I do not know what it is. To come here and ask unprepared like that is not fair to us because yes, it sounds really good for the safety of the kids and of course, everybody supports the safety of our kids. But we do not know the details. I think that all needs to be done. I will be sending over formal questions regarding the costs and the accident data that Councilmember Kagawa requested from KPD.

The other question that Councilmembers Kagawa talked about was that road where we can see the cracks on the road already. Why would we lay down a whole restructuring the road and then come back and do it again after we repave? Put it in the project. If this is where we are going to go, pave the road and then put the paint. The other thing is the traffic counts. I think it is important for us to know the traffic counts. We heard from one (1) member of the community that said the husband is a school teacher at that school, and he had no knowledge of what was going on. Absolutely no knowledge. I will also be asking for the minutes and notes of the outreach efforts that we did with the community because this is a major change. When you take a road and convert it to a one-way, that is going to mess up that traffic flow. Kōloa-Po'ipū Road is bad. We know that. You do not need to live there to know that. I know that is a big problem. I am more interested in seeing what the impacts will be because it is the worst time of the day, mornings and afternoons when school gets in and out, is the worst time of the day. I am also going to be asking you folks to really consider this before we take the vote on the motion, is do we need a public hearing on this because it does not only impact the people at the school and the people on Weliweli Road. It impacts the whole entire Kōloa-Po'ipū community, the Līhu'e community, and everybody that goes down there. So this is a substantial change. This is a substantial change, and I am asking as I am speaking. Please think about that because I am going to be suggesting that we do a public hearing.

The County standards...I think we have standards. The reason we have County standards number one is for safety and liability. If a child gets hurt because we compromised on the standards because we wanted to do this, what kind of liability and exposure do we put ourselves in? No what was twenty (20) feet, it is okay to deviate because we want to put a walkway without any kind of median and without any kind of division. Now the kid get hurts, kid gets hit, and adult gets hit. Where does that put us legally because we did not meet the standard of the County? These are questions that we have got to ask. I do not want to sound like I do not like kids. But when we do things like this, it is our job and that should have been presented

with this package, and it was not. I am going to be asking those questions because I think it is important. When we set a precedent like was said so many times, that we want to use this model for other communities, we do not want to have a model that is detrimental to the County and duplicate that model. Have we even tried a trial run? This would not be a problem maybe for a month to make that one-way in the morning, one way in the afternoon when the kids walk and see what the outcome was and see what impact it had on Kōloa-Po'ipū. How much would that cost? It will not cost much. We have traffic unit in the Police Department. That is their job. They can block the road. They can put out the notice, we can do a trial period for a month, and no cars would be on that road. We will see number one, how many kids really would do it. This walk to school day or whatever the thing is called, I have not participated in the Kōloa one. I did in Kapa'a. There were people driving from miles away to participate because it is an event. They are not going to walk on that road normally. They drove from three to five (3-5) miles away, parked their car, and they all walked with the parents. They got a nice photo op with a huge amount of people, but at the end of the day, those people will not be walking to school. How hard to sit there for one and a half (1½) hours or two (2) hours in the morning to look at how many people actually walk to school? We did not do that because we do not have the resources? We have some issues. I will be sending those questions over. Again, I would suggest a public hearing because it is a major deviation from what is going on now. It is not catering to the cars. Cars are a reality people. Cars are a reality. All of the kids who walk to school, they are not going to drive. They are not going to drive. So you are not going to impact the traffic flow of these people that need to get to work or get to where they need to go in Kōloa-Po'ipū or Līhu'e for that matter. But people use that road. I use Waikomo Road quite a bit because it takes away from the Kōloa-Po'ipū mess. That is a mess. Anyway with that, Councilmember Yukimura, did you want to make the motion to refer?

Councilmember Yukimura: Yes. I want to check with the Chair of the Public Works / Parks & Recreation Committee. Is it okay to refer to my Committee as a multi-modal or do you want us to refer it to your Committee?

Councilmember Kagawa: You can have it in your Committee.

Councilmember Yukimura: Okay. Chair, do you want to set a public hearing now or later?

Council Chair Rapozo: I would suggest we set it now. I am not sure how many people are going to watch this broadcast, but I want to make sure that the Kōloa-Po'ipū community is aware of what is going on because I think of what Ms. Sparks said, I am concerned that maybe the word is not out and that concerns me.

Councilmember Yukimura: Staff, do you have a suggestion?

Council Chair Rapozo: The only concern is if we wait until the Committee Meeting, then you are going to prolong the ultimate action because if we could schedule the public hearing before the next Committee Meeting, at least we will have that out of the way and treat it like we normally do with a bill. This is a Resolution.

Councilmember Yukimura: Maybe we just choose a suitable public hearing date.

Council Chair Rapozo: Yes.

Ms. Fountain-Tanigawa: We could do the public hearing...we will miss the 27<sup>th</sup>. The next would be May 4<sup>th</sup>, which is a Council Meeting day, and then Committee Meeting on the 11<sup>th</sup>.

Council Chair Rapozo: Okay.

Councilmember Yukimura moved to schedule Public Hearing for May 4, 2016, and referred to the Housing & Transportation Committee, seconded by Councilmember Kuali'i.

Council Chair Rapozo: Is there any further discussion?

The motion to schedule Public Hearing for May 4, 2016, and referred to the Housing & Transportation Committee was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

#### BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2628) – A BILL FOR AN ORDINANCE TO AMEND CHAPTERS 18, 20, AND 23 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REVOCABLE PERMITS IN COUNTY DESIGNATED RIGHTS-OF-WAY

Ms. Fountain-Tanigawa: Chair, we have one (1) registered speaker.

Councilmember Kuali'i moved for passage of Proposed Draft Bill (No. 2628) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 18, 2016, and referred to the Public Works / Parks & Recreation Committee, seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you. With that, I will suspend the rules. Who is the first speaker?

Ms. Fountain-Tanigawa: Judith Page.

Councilmember Kagawa moved to amend Proposed Draft Bill (No. 2628) as circulated, as shown in the Floor Amendment, which is attached hereto and incorporated here in as Attachment 1, seconded by Councilmember Kaneshiro.

Councilmember Kagawa: This amendment is correcting some typographical errors.

Council Chair Rapozo: Okay, it is just housekeeping. Thank you. Any discussion on the amendment? Councilmember Hooser.

Councilmember Hooser: Is the Administration going to explain the Bill itself today at some point?

Council Chair Rapozo: If you want.

Councilmember Hooser: Yes, I would like that.

Council Chair Rapozo: Do you want to do that today or did you want to do it at the Committee Meeting?

Councilmember Hooser: I would like to do it before I vote on it.

Council Chair Rapozo: Okay. Is the Administration here?

Councilmember Kagawa: Should we vote on the amendment first?

Council Chair Rapozo: If you folks are ready. It is only a typographical error.

The motion to amend Proposed Draft Bill (No. 2628) as circulated, as shown in the Floor Amendment, which is attached hereto and incorporated here in as Attachment 1, was then put, and unanimously carried.

Council Chair Rapozo: Thank you very much.

There being no objections, the rules were suspended.

Mr. Tabata: Good morning Council Chair, Vice Chair, and Members of the Council. The genesis of this Bill that we are bringing forward arose from community concerns of activities. It all started with activities in Hanapēpē Town with their Friday Art Night and vendors vending in the public right-of-way and creating traffic congestion, making it unsafe for pedestrians, and making vehicular confrontations. From Friday Art Night you see it now in Kapaʻa Town as Kapaʻa First Saturdays. We are having these types of events pop up all over the island. We were charged with coming up with something that would be able to have those activities be somewhat controlled and organized. Lee Steinmetz worked with our attorneys

and came up with a revocable permit program that we can use both in the public rights-of-way and in the County parks. He has all of the details, and I will turn the discussion over to him.

Mr. Steinmetz: Thank you. Again, I am Lee Steinmetz, Transportation Planner with the Planning Department. As Lyle mentioned, there were a bunch of different activities going on in different places that really prompted us to a look at our existing ordinances and how we might amend them to clarify how different ordinances might be used to allow for vending in our right-of-way. The idea of this really was to simplify and clarify it for everybody that might want to get a permit for different uses, to align our process with State law, to really work with community groups that want to do an event like Friday Art Night and Kapa'a Saturdays, to empower them to what type of event that they want to have and the County can support that, and to make sure that we have a process that is equitable islandwide so we are applying the same rules everywhere no matter where this is coming up.

Council Chair Rapozo, the presiding officer, relinquished Chairmanship to Councilmember Kagawa.

*(Council Chair Rapozo was noted as not present.)*

Mr. Steinmetz: I wanted to just kind of give you an overview of what we are doing by the table that is up on the screen, some kind of different examples of what is happening, and how we would apply these ordinances. As you can see on this table, the first issue is vending in County parks. We have the Peddlers and Concessionaires Permit, which was created specifically for this purpose of vending in County parks, but there was an issue with the way the Ordinance was written that sometimes it was also interpreted that it applied to all of our County roads. There was a certain section of that Ordinance that made it confusing. We wanted to clarify that the purpose of this Ordinance is for properties that are under the jurisdiction of the Department of Parks & Recreation. A slight caveat to that, there is also the issue of roads that are immediately adjacent to County parks. Sometimes there is vending that creeps out of a park on to an adjacent roadway, so we are also going to be clarifying that where there is a road that is adjacent to a County park, we would give that jurisdiction for controlling vending to the Department of Parks & Recreation because it is really related to the park.

The next issue someone that just starts vending in County right-of-way without trying to reserve it. So if someone just pulls up into a parking space on a street and starts vending. We actually had this happen. One (1) example is in the Lāwa'i Beach Road in Po'ipū by Spouting Horn where some snuba operators were pulling up into a parking space, and did their vending from there. That really created a problem because they were staging their equipment on the sidewalk and talking to the people who wanted to do this right on the sidewalk, which meant that people had to walk in the street because the sidewalk was taken up with their space. We wanted

a better way to control that, and there is actually a State ordinance that already prohibits vending in the public right-of-way when it creates a hazard or a nuisance. We wanted to incorporate that into our County ordinance as well using the same language from State ordinance to be able to control that better, and this is generally going to be complaint-based. We are not planning go out and look for this, but a lot of times we do get complaints of dangerous conditions, and we want the authority to be able to address that.

Then the last area is reserved use of County right-of-way. This is where someone does not just pull up, but they want to use that space on a regular basis and they want to reserve it. Another example of that is Truck Stop Thursday that happens on Rice Street where The Beer Company actually puts cones in the parking spaces to reserve those spaces for their use. That is an example of reserved use. Kapa'a First Saturdays has wanted to reserve some side streets to close those off and have food truck vendors on those streets. So that is another example of that.

What we wanted to do is take the existing Revocable Permit Ordinance and make that be applicable for those type of uses. A significant difference between the Revocable Permit Ordinance and Peddlers and Concessionaires Ordinance is in the Peddlers and Concessionaires Ordinance, every single vendor is required to get a permit. We wanted to create this where an event organizer could get the permit as opposed to every single vendor for use of rights-of-way. For example, Hanapēpē Art Night, the Hanapēpē Economic Alliance, for example, could be the organizer. They would get the permit from the County, but then it would be up to them to organize their vendors so the County does not have to deal with all of these separate permits from all the different vendors. Of course the vendors are still responsible to pay sales tax. If it is a food vendor, they still have to comply with State health laws. All of those things are still required, but the actual vending permit would be through the event organizer, which really simplifies it for the County. It also means that when someone is planning a community event, that they have to really work with the community as a whole because they are going to be representing that community. We want those events to be community-based and not something that the County is imposing or something where the County ends up having to play referee between a couple of different groups, which may have different ideas of what that event would be. We are also using this, as I mentioned, to empower community groups to take leadership for the events that they are sponsoring. That is a really quick overview of how this is organized and the purpose of it.

Councilmember Kagawa: Are there any questions Members?  
Councilmember Chock.

Councilmember Chock: Thank you. Thank you for the overview. I know you brought up Hanapēpē as the model that you are looking at. Would this ordinance infringe upon private properties and their freedom to have vendors on their sidewalk? Is that correct?

Mr. Steinmetz: Yes, that is correct. This would only apply to public property. We really do not have...yes. We are not trying to regulate private property. Hanapēpē is a bit unique because the property lines are really circuitous and a lot of sidewalks are on private property, so that would be up to the private property owners to control that. One (1) of the conversations that we had with the Hanapēpē Economic Alliance is if you can get the property and business owners to work with you and perhaps that group still manages vending within those spaces so that they can really organize it how they want, but that would be between the private property owner and whoever the event organizer is to work that out.

Councilmember Chock: In terms of the event permit costs for security, restrooms, or any other needs, are those upon the permittee as well?

Councilmember Kagawa returned Chairmanship to Council Chair Rapozo.

Mr. Steinmetz: With this revocable permit, there would be conditions that would be applied. So depending on what the event is and what the needs are, this would be reviewed by various departments within the County, and conditions could be written up. Actually, that has been done with Kapaʻa Business Association, where there was a requirement to have security guards. In the case of Hanapēpē, they had to bring in portable restrooms for that event. Those would be conditions that would be associated with the permit, and there are costs that organization incurs by having that event. This also gives them the opportunity to, for example, if they want to charge a fee to vendors to be able to participate in their event, not to rent the public space, but perhaps to become a member and pay something. That allows the event organizer to be able to raise some funds to be able to pay for expenses such as portable toilets, security, or whatever that might be.

Councilmember Chock: Thank you.

Councilmember Kagawa: I have a question.

Council Chair Rapozo: Go ahead, Councilmember Kagawa.

Councilmember Kagawa: Where did we get the language for this Bill from? I know I introduced it, but I just introduced it by request. Did we follow another County's language?

*(Councilmember Chock was noted as not present.)*

Mr. Steinmetz: Different parts come from different places. The ordinance itself was already an existing County Ordinance, so we were updating that Ordinance. The piece related to giving the County authority to restrict vending when it is a hazard came directly from the State language that was already in place.



Councilmember Kagawa: Alright. The Department of Parks & Recreation and the Department of Economic Development handles the farmers' markets, right?

Mr. Steinmetz: Yes, I believe it is the Department of Economic Development.

Councilmember Kagawa: And the Department of Parks & Recreation. The craft fairs, Coconut Festivals, and what have you are reserved through the Department of Parks & Recreation?

Mr. Steinmetz: Yes.

Councilmember Kagawa: Are you now overseeing all of that?

Mr. Steinmetz: No. We are not changing anything about things that are occurring in parks. If it is in a park or on a road adjacent to a park, would still be under the authority of Department of Parks & Recreation, and the permits would still go through Department of Parks & Recreation.

Councilmember Kagawa: Okay. So this is just to give us teeth to enforce people who do not have permits?

Mr. Steinmetz: Is it to do that, and the missing piece was vending on public right-of-way that is not a park; vending on a street or vending in a parking space. That authority would go to the Department of Public Works.

Councilmember Kagawa: Who is going to be the enforcement officer if it is complaint-based? If a complaint is made to the Department of Public Works or to Department of Parks & Recreation that somebody is doing some wrongdoing that are not complying with this ordinance, who is going to enforce that?

*(Councilmember Chock was noted as present.)*

Mr. Steinmetz: There is a two-phased process, and Lyle, please add if I get this wrong. Typically what has happened is the first phase is the Department of Public Works sends a letter to whoever is not in compliance, and that letter says "you need to stop doing this." If they do not comply, then it goes to the Police Department to actually issue a citation.

Mr. Tabata: That is correct.

Councilmember Kagawa: Do we need any fines or something that will kind of help to get the letter to be a workable manner? If you do not have a fine, then they are not going to listen, right? Do we have a fine or some type of teeth?

Mr. Tabata: We will have to look at that, yes.

Councilmember Kagawa: Okay, thank you. Thank you, Chair.

Council Chair Rapozo: Councilmember Hooser and then Councilmember Kualii.

Councilmember Hooser: With any new law that we have, I am concerned about unintended consequences. We had a lot of vendors out there that have been doing it for years, and I am just concerned that all of a sudden we are going to pass a law, start fining people, tell them they cannot do it, make them get a permit, and I do not want to do that. I understand the need for some regulation, but these people that are selling *akule*, smoked meat, and flowers on the streets have been doing it for a long time. I do not think we need to be heavy-handed at all. I understand complaint-based, but that can also be used as a competitive tool. Could you address that? How many people are going to be impacted by this that all of a sudden they are going wake up, going to have to get a permit or face fines, and that kind of thing?

Mr. Tabata: Primarily right now, a majority of those who do roadside vending are doing it outside of the County right-of-way. The areas where we do get complaints is where they are intruding into the right-of-way. So those that, I believe you mentioned, we cannot prohibit the sale of *akule*, flowers, *lei*, and of things because it is cultural thing and in the Hawai'i Revised Statutes (HRS). Those are all protected under HRS; however, the reason for this was from the major organized activities that needed to be controlled and we did not have a way to govern anything happening in our right-of-way. Part of it is safety. KPD had some input and concerns into this, too. To answer, the short answer is I believe that it would not take away from vending that is happening traditionally because most of it is done outside of the right-of-way, but those that are in the County right-of-way we get reports right way, so we work with KPD to deal with them right now. Like Lee mentioned, the process is we have to send a letter and go through this process of notification.

Councilmember Hooser: Thank you. This sounds like it is almost granting an exclusive license to manage Hanapēpē and Kapa'a. You are going to select one (1) vendor and they get to line up all their sub-vendors. Is there any restrictions or any controls on that? Say I am a vendor and I want to set up in Kapa'a, but I want to set up on my own and I have to work with this other master licensee. Is that a month to month or annual contract? How does that work?

Mr. Steinmetz: In most cases, the groups that have been coming or have been requesting this have been some type of business association, such as the Kapa'a Business Association or the Hanapēpē Economic Alliance that represents the businesses within an area. They are looking at trying to create some kind of event that highlights their place. The issue that they have had in doing this

is they want to put vendors in particular locations, they kind of have an idea of what they want to do, and then all of a sudden a lot of other vendors come in and either setup where someone else is supposed to set up or do whatever. So they are trying to create some order for themselves in terms of how their events are organized or people set up in places where they are not supposed to where it is not safe, and right now they do not really have a way to be able to control that very well. Really what we are trying to do is work with these associations to be able to better handle that. In the case of...and most of these are non-profits. They are really looking at this again to do some kind of event. If you look at the language, there is certain questions that have to be asked about who is the organization that is actually sponsoring this? If it is a for-profit group, for example, that what wanted to do this, then we would actually have to look at bidding something out so that there is fair competition. It kind of depends on who is actually organizing the event, how they want to do it, and are there competitive groups that are trying to do the same thing.

Councilmember Hooser: Okay. My final question for now is County roads accessing farming communities that are selling produce and fresh food from the roadside stands there, does this impact those folks?

Mr. Tabata: Only if they intrude into the right-of-way. Most of them are out of right-of-way. Typically, a right-of-way would be say sixty (60) feet and we put our twenty (20) feet road in between, and then you have the shoulder. Anything outside is not included. Primarily, a lot of the vending say in Kapa'a and Hanapēpē, if they are being done on private property, it is not part of this. It is only if they use the road shoulder or a parking space in the County's right-of-way.

Councilmember Hooser: Okay. My final question is will there be requirements for the permits? Is there going to be fee, insurance that you have to provide, a bond, or you have to do whatever? I would imagine a certain amount of liability for the County to issue a permit saying it is okay to operate your business here and something bad happens. Will there be requirements that possibly might be restricting the activity more than people are expecting?

Mr. Steinmetz: There would be insurance requirements. Again, looking at the nonprofits, they are able to provide that insurance. What type of agreement they want to make with their vendors, which a lot of them are mom and pop vendors, high school groups that are coming out and fundraising, or whatever, that would be between that organizer and the vendors to decide what requirements they want to make.

Councilmember Hooser: A lunch wagon on the County road, would the County put insurance requirements or other requirements on that lunch wagon?

Mr. Steinmetz: Yes, I think there would be an insurance requirement, but again, we really have not seen that coming from individual vendors. All of the lunch wagons for example, are all on private property. So we actually never

had a request for that to-date. There would be an application fee for the permit, which we are setting at one hundred dollars (\$100) just to have some money to be able to process it and send it around to the different agencies. The permit itself, if it is a nonprofit and it meets the requirements, there would not be a charge actually for the use of the public right-of-way. The way it is set up is whoever is applying could get it up to a year. If it is a recurring event like Hanapēpē Art Night and Kapaʻa First Saturday, those organizers could get the permit for a year and not have to apply every single week or every single month that they have that event. Again it is a revocable permit. So if will are ever any issues that come up, safety or whatever, the County has the right to revoke that permit.

Councilmember Hooser: Great. Thank you very much. Thank you, Chair.

Council Chair Rapozo: Councilmember Kualiʻi.

Councilmember Kualiʻi: I share some of the similar concerns and I think as we work on this Bill, we have to make sure that all the different concerns are addressed and it covers it. You talked about the lunch wagons and you do not have an issue because no vendors have requested, but this Bill will spell out for future requests, if they do request, correct? When you talked about the revocable nature of it, it is granted at a year at a time and whether it be a large community association or an individual, is that the same?

Mr. Steinmetz: Yes.

Councilmember Kualiʻi: Is it a year-to-year revocable permit?

Mr. Steinmetz: Well, it can be up to a year. If someone is having a one (1) time event where they want to use a street for a festival or whatever, they could apply and just have it be for a one (1) time event.

Councilmember Kualiʻi: If they had a monthly event, they can still get the revocable permit for twelve (12) months at a time?

Mr. Steinmetz: Yes.

Councilmember Kualiʻi: Not one (1) month at a time?

Mr. Steinmetz: Yes.

Councilmember Kualiʻi: If they operated for three (3) months and by the third month there seemed to be a lot of problems, you could revoke it immediately and they could not operate the fourth month?

Mr. Steinmetz: Correct.

Councilmember Kuali'i: Or do you have to revoke it on the yearly cycle?

Mr. Steinmetz: Correct.

Councilmember Kuali'i: Okay. That obviously all has to be addressed. It does seem that you are just doing a blanket one hundred dollar (\$100) fee, and so it is more about the type of use and not the amount of use. I think the County should consider the amount of use because I think there is a big difference between a small operator and a large operator. If somebody is taking the whole town, that is different from taking one (1) little corner where you park one (1) vehicle, right, but you will be treating them exactly the same with the exact one hundred dollar (\$100) fee. I am wondering if that is even enough to take care of administration and enforcement. Probably not. You would have to be handling that some other way in the Police Department budget or in the Department of Planning budget. I do not know. Those are all things that I would want to see worked out in this Bill.

Council Chair Rapozo: Are there any other questions?  
Councilmember Kaneshiro.

Councilmember Kaneshiro: I just have a quick question on enforcement that Councilmember Kagawa brought up. I just want a little bit more information on it and it can be in the future. But say someone sets up shot at night next to a big event. I am not sure how you folks are going to know what their mailing address is to send them a warning. Does it take police to go and ask them a question or how does that work?

Mr. Tabata: I believe, say if it is the Hanapēpē Economic Alliance, it is theirs to govern, they will say that we have having problems with this vendor and then we are going to have to address that.

Councilmember Kuali'i: Again, I think they may not know what the mailing address is either. How are you going to work that eventually?

Mr. Steinmetz: Are you talking about someone who comes to an event that is not authorized to be at the event?

Councilmember Kaneshiro: Correct.

Mr. Steinmetz: What we are looking at doing, probably one (1) of the conditions of approval, would be that the people who have signed up and are registered to be vendors, would have some kind of certificate or something that they have and could show. The first line would be for whoever the event organizer is to try to tell people "I am sorry, but you cannot set up here. You were not authorized to do this...blah blah blah." If that does not work, they could call KPD to come and enforce it, and what KPD would be looking for is that certificate or whatever that

they have to require them to move. That is kind of what we are looking at, is trying to get the event organizer to be the first phase of enforcement and then if that is not working, KPD would be the backup. As part of this discussion, KPD wanted to make sure there was some kind of condition added to the permit so that they would be able to identify who is supposed to be there and who is not.

Councilmember Kaneshiro: Okay, because I thought earlier I heard that we were going send certified letters to the people warning about them being an at event that they are not supposed to be at, but then I was thinking how do we know what their address is.

Mr. Steinmetz: That is a little bit different. That was for, the example of the snuba vendor that is not related to an event and is just a vendor coming and using public right-of-way where it creates a hazardous condition not related to the event.

Councilmember Kaneshiro: Again, my logic would be the same. How do you get the address from the person who set up shop in the parking lot especially if it is after-hours? If police is going to do that or...

Mr. Tabata: For that snuba event, we went out there, got the information, KPD helped us, and we issued the letters.

Councilmember Kagawa: Would KPD be playing a big part in the enforcement?

Mr. Tabata: They have helped, yes, because they received the initial complaints and came to us, and that also helped us create the ordinance.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Are you saying that the event coordinator or organization behind the permit will have exclusive rights to figure out who they want to participate or not participate, and therefore limiting who can be there and what vendors can be there on that event night as well as a fee that they can collect from these vendors?

Mr. Steinmetz: Yes. What we would be looking at from an event organizer is we would want some kind of map of how they want to use the space so we can understand what they are proposing to do and what the safety issues are with that. Then it would be up to them to organize the vendors that they want to come in however they want to do that. In terms of a fee, they can charge a registration fee. They could say, "You need to be a member of our organization to participate." They can and decide what they want to do, but they cannot rent out the public space. It has to be a fee-based however they decide they want to do that. Then they can use

that money to help pay for restrooms, security guards, and whatever the other requirements are.

Councilmember Chock: My concern is just not getting in the middle of who can and who cannot between...I mean, competing organizations, for instance, and public space. I just want to make sure we are not going down that road.

Mr. Steinmetz: Right. The intent is that the organizer would need to get the support of the community and the businesses in terms of organizing the event and what the event is. If we start hearing complaints, then we may not issue the permit. We might say, "Hey, you folks have to go back and work this out more because we are getting complaints about what you are proposing to do."

Council Chair Rapozo: We are coming up on the lunch hour. You are saying that a person can come in and apply for a permit to utilize the County right-of-way, right, and that organizer or whatever can charge a fee for others to utilize it? Is that what this Bill allows?

Mr. Steinmetz: Again, they cannot charge a fee for use of the public space. They can charge a fee to participate in whatever the event is so that they can raise money to be able to pay for security guards to actually put on the event.

Council Chair Rapozo: Can they turn someone away off County property?

Mr. Steinmetz: Yes.

Council Chair Rapozo: Has the attorneys looked at this?

Mr. Steinmetz: Yes.

Council Chair Rapozo: Did the attorneys say we can do that? I could come out and get a permit for the parking lot here on County property and say, "No, sorry. I am only going to let you folks pay me to use the County's space" whether you call registration or whatever?

Mr. Steinmetz: For an event, yes. For example, when we have Lights on Rice and the Kaua'i Museum gets a permit to use our parking lot, they choose which vendors are going to come and use that parking lot.

Council Chair Rapozo: And they can charge?

Mr. Steinmetz: Yes.

Council Chair Rapozo: Wow. Okay, I will check with the attorneys because seems kind of weird that somebody can profit off the use of the County, but if they said alright, he said alright.

Mr. Steinmetz: One (1) of the questions as part of the application is are a nonprofit or for-profit. If you do this as a for-profit thing, that switches the permit that has to be something that is bid out and there is a competitive bid process. It no longer becomes something...so really what we are looking at are these kinds of community festivals that organizations are trying to sponsor to highlight their community.

Council Chair Rapozo: Yes. I think the festivals, the nonprofits, when they are doing...I do not think they turn anybody away unless they run out of space. When you are talking about the town or whether it is First Friday or First Saturdays, or those nights, those events are being done to generate profits, money, not to celebrate a festival or an event. This is where people come on the County right-of-way and private businesses are making money. I think that is where I am a little concerned.

Mr. Steinmetz: The vendors are making money and that is why they come. The organizer of the event is not making money because of the cost of getting the security guards and all of the things that they have to do.

Council Chair Rapozo: Okay. With that, we are going to have to take a lunch break because we have a public hearing at 1:30 p.m. that we have to have at 1:30 p.m. We will come back, and I am assuming there will be some public testimony on this. We will come back, we will do the public hearing, we will finish up this item and then we will do the Bed & Breakfast (B&B) Bill right after that. With that, we will be back at 1:30 p.m.

There being no objections, the meeting recessed at 1:40 p.m.

The meeting reconvened at 3:49 p.m., and proceeded as follows:

*(Councilmembers Hooser and Kagawa were noted as not present.)*

Council Chair Rapozo: We are back at the vendor's bill.

Ms. Fountain-Tanigawa: Yes, Proposed Draft Bill (No. 2628) on page 4.

Council Chair Rapozo: Okay. I believe we were in discussion when we broke for lunch. Oh, no, public testimony.

Ms. Fountain-Tanigawa: We have one (1) registered speaker.



Council Chair Rapozo: Anyone here wishing to testify on the...I appreciate your patience, ma'am. I saw you here from this morning. Thank you for your patience.

There being no objections, the rules were suspended to take public testimony.

JUDITH PAGE: I am Judith Page. I am the President of the Hanapēpē Economic Alliance. I am going read a letter, but then I also have some comments that came out of that whole discussion that you folks just had. The Hanapēpē Economic Alliance, its officers, and members, want to express our support for the revocable permit process that will allow organization to manage vending on County rights-of-way. Since 1997, the town of Hanapēpē has hosted Friday Art Night each week with galleries, shops, and restaurants open for business, and food and craft vendors setting up on the street. This event is very popular with both local residents and visitors to Kaua'i. Such an ordinance would allow us to improve our event for the benefit of the many visitors who enjoy it each week, as well as to ensure its integrity and allow to promote Kaua'i made products by local artisans, businesses, and manufactures. The Hanapēpē Economic Alliance urges the Council to adopt a revocable permit ordinance for vending on the County's rights-of-way.

Now, I heard that whole discussion and they kept throwing our name around as one of the people. I wanted to say something about us. We are a nonprofit. It is an all-volunteer organization. It was organized in 1997. The first thing we did was put up historical plaques on buildings around town that tell people about the history of Hanapēpē, and also the kiosks in the baggage areas at the airport are ours. We built them, put them in, and keep them up. We have put on the Kaua'i Orchid and Art Festival in collaboration where the Garden Island Orchid Society for ten (10) years. We just put it on in April. We put our first Chocolate and Coffee Festival on last October. Our second Chocolate and Coffee Festival will take place this October, and we are working the Kaua'i Soto Zen Temple Zenshuji to collaborate an event as part of their bon dance on July 22<sup>nd</sup>. Other than that, we pick up the trash and recycle every Friday night, otherwise the town would be buried in garage. We landscape the gateways and we pay for insurance. We only have partial membership, but we do this for the benefit of the entire town and community. We organize television and radio advertising campaigns on the visitor stations, and we do other marketing campaigns.

*(Councilmember Hooser was noted as present.)*

Ms. Page: We have worked with the County of Kaua'i and other groups to hold or host community meets and do surveys for them about how we feel about things. We did a very elaborate thing with Lee Steinmetz and Michael, whose last name I do not know, about the complete streets project for Hanapēpē Road. We have done a lot of that. In terms of this ordinance, we have already discussed that we have not a clue as to how we would deal with it. We know that we are the natural people to do it in town, we assume we are, and we plan to have a series of

meetings for community members, businesses, and all of the vendors who are interested so that we can come up with criteria.

Council Chair Rapozo: Hang on right there. Is there anyone else wishing to testify on this matter? You can come back for a second three (3) minutes after we have Mr. Bernabe.

Ms. Page: Thank you.

Council Chair Rapozo: Thank you. Let me just say it is not Matt Bernabe's birthday today. I apologize. That is what happens when you trust Facebook for your information of the day. It was erroneously posted on Facebook.

Mr. Bernabe: I do not believe that.

Council Chair Rapozo: I apologize, Matt.

*(Councilmember Kagawa was noted as present.)*

Mr. Bernabe: Thank you for that clarification, Council Chair Rapozo. Matt Bernabe, for the record. I would like to first point out the success of these evenings. I have never been to a Hanapēpē one; however, I have frequented the Kapa'a First Saturday several times and have actually participated, and I will get into that in a second. The fact that it has grown so big and that we have to organize it is actually a success, right? It did not collapse because of lack of participation. With that said, the Kapa'a First Saturday...my daughter is a fighter. She fights. She holds the title and brings it back to Kaua'i. In the beginning, we used to fundraise. We sold brownies and musubis. I have a bay leaf tree as a fundraiser. We made several hundred dollars each time, which went to flying and supporting my daughter, but it always came at first come first served basis, right?

*(Councilmember Hooser was noted as not present.)*

Mr. Bernabe: For example, we used to set up in front of Pono Market. The Kubotas are good friends of mine and they let people on the sidewalk. Maybe the discussion is do they have the right or do they not have the right to dictate out in front of the sidewalk. That is another argument. I will say this, I just recently called for my older daughter that had something to do with Kapa'a High School. We were not able to use the spot because he already allocated it to some other people. There is only so much room with so much space. No problem. Had we gone earlier, he would have been able to "Yes. We do not have anybody in there." With all of that said, that is hindsight. I support figuring out a system to make this legitimate and safeguard the County as well, but also, let us keep it going and maybe the permit has to be a little bit more. Maybe one hundred dollars (\$100) is not enough for the main umbrella, and that would justify charging the subtenants. I do not know. That has to go through public hearing. I will say this, it is very fun. I like them. I like

First Saturdays. I do not go to all of them. Even when I am stuck in traffic driving through it coming home from work, or motorcycle riding, or cut and trails, or whatever I am doing on the north side, I actually enjoying seeing and being stuck in the traffic. I do not see much negative. Kapa'a Town is dead when it is not the First Saturday event. After a certain time, there is no traffic. Let us work on this and I appreciate this coming up on the agenda.

Council Chair Rapozo: Thank you. Anyone else wishing to testify for the first time? If not, ma'am.

Ms. Page: Okay. Judith Page. You should come to Friday Art Night because it happens every Friday. It happened Christmas and New Year's this year. I just want to reiterate that we really do want to work with the community and the private landowners because we feel that some of them do not know that they are setting up on their property. The landscape in Hanapēpē is very hodgepodgey and kind of crazy. It is hard to tell what belongs to whom. Even though you are supposed to have written permission from the landowner, we know that is not happening in every case. We thought that if we could organize this, we might be able to smooth it out and make it safer and more pleasant for everyone. I do not think we intend to turn anyone away, but we do want people to recognize that all of the businesses in town that rent or stores pay insurance, property tax, pay electricity, use air conditioning, and they spend a lot of money. The people set up out front especially if they do not pay in some way whatsoever are just riding on somebody else's costs and that does not seem fair.

*(Councilmember Hooser was noted as present.)*

Ms. Page: I know we do not want to make any money. What we want to do is cover the trash, recycling, and insurance and add to the marketing and have some security. Thank you.

Council Chair Rapozo: Well said. Thank you.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Is there discussion? Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. I am glad to see that we are trying to help these events have a little organization, order, and rules. My only fear is that, Council Chair, we dealt with the artesian craft fair. When they established a set time when they could use certain areas and I think the Department of Parks & Recreation started opening it up. Then what you had was a similar case where you have one (1) organizer hiring who they want and at the Council, we were dealing with this fight between the vendors and the Department of Parks & Recreation, and they are coming to us and telling us that the process was not a good

process. I know there is no set way of using county parks that is always going to satisfy everyone, but again, my fear is that the public wants fairness when using county facilities and trying to achieve that sometimes is the most difficult part because in everybody's mind, fairness and practicality is not always the easiest to achieve. Hopefully we can work on this Bill and if it is needs to be massaged in certain areas, let us do it knowing that things such as the artesian fair has created a lot of headache, grief, and complaints. In the three (3) years that I have been here, I have been through some of these complaints numerous times, and it does not stop. So there is always room for improvement with using these county facilities and trying to allow community groups to fairly rent it out to people in a fair process. Thank you, Council Chair Rapozo.

Council Chair Rapozo:                      Anyone else? Councilmember Hooser.

Councilmember Hooser:                      I know we are just starting this process right now, so we have a long way to go. But hearing the discussion, I do not want to fail to recognize and applaud those community groups who have taken the initiative over the years, the people in Hanapēpē and Kapaʻa, Tahiti Fete, and there is a whole lot of them. I believe that there a valuable asset to our local community, to local vendors, local producers, as well as to the visitor industry. We should keep that in mind and we need to regulate, but we also need to facilitate. Food trucks...I think it all adds to the atmosphere. It is all small business entrepreneurship. We should keep our eye on the facilitation aspect of the regulation as well. Thank you.

Council Chair Rapozo:                      Anyone else? Councilmember Yukimura.

Councilmember Yukimura:                      Yes. I was just talking to someone else the other night about how successful art night has been in Hanapēpē, and it is because the merchants have come together to do all those things that need to be done to promote the night, to organize, and make sure there is a good venue in the town for it. That is something that is benefiting our businesses, our visitor industry, and our communities, if done well. If this is something that will facilitate that, I think we need to do that. I do not think this is the case of one (1) person for his or her profit is using county property. This is a very different thing to have a community-based organization that is nonprofit and exists for the purpose of supporting all of the individual businesses in town. So to the extent that this will facilitate that, I think this is a good Bill. As Councilmember Hooser pointed out, we are just at the beginning, so will be a lot of opportunities for input and varied views to come forth.

Council Chair Rapozo:                      Thank you. Councilmember Chock.

Councilmember Chock:                      I just wanted to add that I am supportive of this Bill being introduced at this point. I look forward to maybe further work on it. My biggest concern is that whatever we create, it is a process and system of inclusivity, whoever is running it, and leading it. I look forward to the strengthened language moving forward.

Council Chair Rapozo: Anyone else? If not, I will just say, believe it or not, I live in Kapa'a, but have not been to the Kapa'a First Saturday, but I have been to the Hanapēpē Art Night in the past. It is obviously a huge success. My comments in no way were intended for the organized events in Kapa'a or Hanapēpē, but I get concerned. We will take the food trucks on Rice Street, for example. They have their vending permits, but is that open to every food truck on the island or do these people have the permit for all year so on every Thursday night, no one else gets a shot? There is no nonprofit involved there, and I think that is what separates Hanapēpē. What I would like to see, as we move forward into community, I would like to see the Department of Economic Development here as well in this discussion because this is a true example of economic development in Hanapēpē and Kapa'a, of putting together events that benefit the local residents as well as the visitors and provides economic opportunity for so many of the small businesses here on the island. I would like to see the Department of Economic Development here for the discussion as well because Councilmember Hooser used the word "facilitate," I think that is the right term. The County needs to facilitate these events so that it is not a burden, but the County is a partner. I am hoping that is what we can see. Maybe we can send something over requesting the presence of the Department of Economic Development when we have this at the Committee Meeting. Okay, with that, roll call.

The motion for passage of Proposed Draft Bill (No. 2628) as amended on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 18, 2016, and referred to the Public Works / Parks & Recreation Committee was then put, and carried the following vote:

FOR PASSAGE:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0.
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Thank you. May 18<sup>th</sup> is the public hearing. With that, next item.

#### BILL FOR SECOND READING:

Bill No. 2609 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO HOMESTAYS: Councilmember Kagawa moved to receive Bill No. 2609 for the record, on second and final reading, seconded by Councilmember Kuali'i.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: Yes, Council Chair. I know that the Committee recommended to move to receive, and I also know that based on comments from around this table, there is an interest in seeing if it is possible to allow some of the long-standing businesses that have, in good faith, had homestays for a very long time to be able to continue as homestays. I have worked on an amendment and staff has indicated to me that I may not be able to amend Bill No. 2619, which is the one that we sent to Committee, which means I may need to use Bill No. 2609 for consideration of my amendment, which does include prohibition of homestays outside of the Visitor Destination Area (VDA). I have a rough draft of an amendment, but I would prefer, because it is a tricky amendment...it has taken a lot of thought and conferencing with the legal staff that we have. I would like to work on it further before introducing it. The County Attorney is going to be reviewing staff's recommendation that I cannot amend Bill No. 2619. I may be able to amend Bill No. 2619, but in order to keep this vehicle that I might need, I want to ask that we refer this Bill back to Committee on May 11<sup>th</sup> when the other Bill comes up so that we can have both vehicles. I am not trying to prefer Bill No. 2609 over Bill No. 2619, which is in Committee, but I am just trying to craft some very challenging amendments that may need this other vehicle.

Council Chair Rapozo: Would that be a motion?

Councilmember Yukimura: Well, I think...let us see, does the motion to refer has precedence over motion to receive?

Council Chair Rapozo: It did earlier today, so I am assuming it works today.

Councilmember Yukimura: Okay, excuse me.

Ms. Fountain-Tanigawa: We do have registered speakers also.

Council Chair Rapozo: Okay. I just want to make sure that we have the proper motion on the floor.

Councilmember Yukimura: Yes. If there are questions, I would like to...well, you can still discuss a motion to refer.

Councilmember Yukimura moved to refer Bill No. 2609 to the May 11, 2016 Planning Committee Meeting, seconded by Councilmember Hooser.

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: I have a question for the requester of the referral. Is the amendment that you are working on related to grandfathering?

Councilmember Yukimura: No. I do not think grandfathering is an appropriate context. The amendment is to create a class based on a rational basis that is a legitimate class under the law. I believe that is allowed by the law and that is what I am working on. I have actually created the wording, but it needs to be reviewed.

Councilmember Kagawa: Can I ask another question?

Councilmember Yukimura: Yes.

Councilmember Kagawa: So you are working on an amendment to create a specific class that would allow for the Planning Commission to review applications for B&Bs outside of the VDA for homestays?

Councilmember Yukimura: For a very small number of people that have been paying taxes since 2008, have applied for homestay, and things like that.

Councilmember Kagawa: But you said it is not about grandfathering.

Councilmember Yukimura: Yes, because grandfathering is, as classically applied anyway, requires that the use was legal prior to being made illegal, and that is not the circumstance we have here.

Councilmember Kagawa: I still do not understand.

Councilmember Yukimura: It is...

Councilmember Kagawa: I will accept the response.

Council Chair Rapozo: I do not want to get into the discussion of a potential amendment because that is against the Sunshine Law. She is asking for a referral to the Committee so can have that discussion at some point.

Councilmember Yukimura: Yes. Thank you.

Council Chair Rapozo: I do not have a problem with that. I just do not want to get into the discussion of a potential amendment.

Councilmember Kagawa: My apologies.

Council Chair Rapozo: No, I think the questions were legitimate.

Councilmember Yukimura: I do, too.

Council Chair Rapozo: The questions were legitimate. Unfortunately, if the Sunshine Law allowed us, these questions could have been resolved before today.

Councilmember Yukimura: Anyway, I think I described the general approach, but I have not given out the details because they really need to be worked out. So it was appropriate. Thank you.

Council Chair Rapozo: Thank you. Any other questions of the introducer or discussion before we move forward?

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: I think you have heard Councilmember Yukimura's plan is to keep this Bill alive and to deal with an amendment that would potentially assist those who have been in the B&B industry prior. I am not sure if anybody wants to testify on that. Right now, the amendment is not on the floor. The testimony should be directed to the Bill at-hand. With that, Mr. Bernabe.

Ms. Fountain-Tanigawa: Chair, we have registered speakers.

Council Chair Rapozo: I am sorry. We have registered speakers. I apologize.

Ms. Fountain-Tanigawa: The first registered speaker is Alexis Boilini, followed by Bill Cowern.

Council Chair Rapozo: Okay. However you want to deal with this.

BILL COWERN: Bill Cowern. I think I will just wait until the next hearing. That kind of throws a monkey wrench in the whole thing. I do think it is important to address what Councilmember Yukimura is trying to address. Thank you very much.

Council Chair Rapozo: Next speaker.

Ms. Fountain-Tanigawa: The next speaker is Alexis Boilini, followed by Lorna Hoff.

ALEXIS BOILINI: He is kind of right actually. Thank you, Councilmember Yukimura. I am just going to refer to a couple of things...

Council Chair Rapozo: You just need to please state your name real quick for the captioner.

Ms. Boilini: Alexis Boilini.



Council Chair Rapozo:

Thank you.

Ms. Boilini: The present Comprehensive Zoning Ordinance (CZO) includes nine (9) pages of the chart of structures and uses that require a permit and what permits are needed. Bed & Breakfast and homestays have to this day, never been added to the uses requiring a use permit in the CZO on that chart. Like the timeshares, the CZO had no provisions and still has no provision completed to deal with homestays and Bed & Breakfasts, and that is why the Council has been finally creating the standards and the permitting process, which was promised in 2008 via Ordinance No. 864. The Council purposefully separated out residents operated alternative accommodations in Ordinance No. 864 because as we have heard, the Council was not worried about them at the time. All General Plans from 1987 to 2005 have carried through the same language in their recommendations and that was that the term "Bed & Breakfast facilities" must be defined in the CZO. Under definitions in the CZO, next to the term "Bed & Breakfast," it says "see Homestay, Transient Vacation Rental (TVR), single-family vacation rental, and multi-family vacation rental." All four (4) cross-references have been defined later in the section with the exception of the term Bed & Breakfast; that is because the CZO and you, the Council, are just now developing provisions to deal with them. The definition of the word "definition" is the act of defining or making something definite, definitive, distinct, or clear, an explanation or meaning. Cross-reference, on the other hand, is notation or direction to tell you where to go for more information, and that is actually what is included right now in the CZO. Ultimately, the legislative body, this Council, decides what zoning regulations and policies will be adopted and followed by the community. I found that on page 3 of the Zoning Board of Appeals handbook. The Deputy Planning Director stated last week on April 12, 2016 in the Council Meeting that if the use changes, a permit must be applied for. Most of the Bed & Breakfast and homestays scheduled for contested hearings have been in continued lawful use for twenty (20) to thirty (30) years. Several have never been used as a single-family dwelling, only Bed & Breakfast from day one. These uses have never changed. The Deputy Planning Director stated on January 21, 2016 at a Council Meeting that homestays and Bed & Breakfasts were instructed to cease and desist during the intake process. The TVRs in 2008 followed the 1987 CZO, which allowed a provisional certificate of use until the use permits were approved or denied a permit, see Section 8.17-10(b) Non-Conforming Use Certificate for Single-Family Rentals. Today, the CZO finally includes Transient Vacation Rentals, which defines as transient as a person who rents or using a dwelling unit which is not the person's primary residence under the Internal Revenue Service code. Suddenly this year, we had the Planning Department trying to now say that Bed & Breakfasts...

Council Chair Rapozo:  
wishing to testify?

Hang on real quick. Is there anyone else

Ms. Fountain-Tanigawa:

We have registered speakers.

Council Chair Rapozo: Okay. No, I cannot let her go. She can come back after everyone is done. Ms. Hoff, did you want to testify?

LORNA HOFF: Good afternoon. I am Lorna Hoff, and I am representing John. He has been working on this all week, and you all have one now. I just wanted it entered into the record. It is called "Permits and Grandfathering." I do appreciate what Councilmember Yukimura is moving into. John is a historian and he went back...he just has it here, the following is a short history as to the birth, application, and lifespan of the use of grandfathering in the State of Hawai'i as well as on the island of Kaua'i for the past forty-five (45) years. If you do not use this for the B&B situation or whatever, I think what John has put together is extremely helpful. It is kind of a go-to little book. It starts in 1971 and gives all the resolutions; Resolution No. 66, 1972, Ordinance No. 164 in 1984, an update twelve (12) years later Ordinance No. 466, and then on to 1987, Ordinance No. 753, the 2000 General Plan Update, 2000 to 2005 Helber Hastert and Fee (HH&F), Kaua'i County Comprehensive Zoning Update, 2006 to 2015 Kaua'i Tourism Strategic Plan, 2009 applications for TVRs started to be accepted, then back to 2008, Rule Development Counsel, and that actually has a manual for residents, 2015, Ordinance No. 987 and the 2016 to 2018 Kaua'i Tourism Plan Update. This is all in here. John has every bit of information. He just gave you copies of where he took it from. It is everything that is for it; the County Ordinances, Kaua'i County Code 1987 and you have everything. It is just the front covers. So you can refer to all of this, but it is simplified that it makes you understand where we have been going in our thoughts of lawful continued operations. In closing, the records of these past forty-five (45) years, 1971 to 2016, reveals a pattern of lack of due diligence, not necessarily on the part of the general public, residents, and business, but rather on elected and hired staff in the realm of government accountability. That is not from John or I or anyone. That is actually from the HH&F in 2005 and the HRDC in 2008. That is actually their wording. It is not a reflection of what we feel. It is a reflection of what your own government codes and county plans and policies have come up with. Thank you very much. I am pleased to see you progressing with this and all the time you spent. Thank you.

Council Chair Rapozo: Thank you. Matt.

Mr. Bernabe: Matt Bernabe, for the record. I would like to start with I am a little concerned. I thought this was a Bill to prevent B&Bs to go into residential areas, and I do not see that. I just see that it addresses agriculture and open zoning because if you look at line 2, it says, "homestays located outside of the Visitor Destination Area." I am assuming that we will be having B&Bs outside. Now with that said, I am also concerned because at the top it talks about the 2000 General Plan and this is a mechanism to correct some of what happened from that General Plan, that we are leaving ourselves up for lawsuits if we exclude some of the open space people who designed their economic development plan for their business around our General Plan moving here. With that said, I think we should have a bill that restricts all commercial activity in a residential area, which would

take care of more than one (1) problem because I talked to the Department of Planning, and they have a problem with other businesses that are in residential areas, not just B&Bs.

*(Councilmember Kagawa was noted as not present.)*

Mr. Bernabe: But that would solve that and it would take away the prejudice from this issue. We would be able to address the B&Bs within the residential area without being so biased. In our history, with us dealing with this issue is not very good. Obviously, we are here. We are discussing it in the manner that we are discussing it because we all have to admit that part of this problem is how we as the County, I am not pointing fingers, but as we as the County have navigated through this issue. I am also concerned with the language that says they have to be there for the guests twenty-four hours/seven days a week (24/7) because that forces them to be a full-time business.

*(Councilmember Kagawa was noted as present.)*

Mr. Bernabe: This is no longer an offset of income. If you are the farmer and you have thirty-five (35) acres, you need to be physically available. If they are injured, you are now liable because you are not available because we are making you earn a concern amount of money before we can put you? These are some of the things look at some of the things that we are talking about here, or if you are in the place that is not a farming area, now we have encourage you to expand your business because you no longer can go and get a regular job. I think when you folks huddle up, you folks better look at more than what you folks are planning on looking at, and look at some of these issues and some of the things that I just said because I think this is a better route. Let us make all commercial activities outlawed in residential areas. Thank you.

Council Chair Rapozo: Anyone else wishing to testify for the first time? If not, second time?

Ms. Boilini: Hi, Alexis Boilini again. Matt made a really interesting point about the twenty-four hours/seven days a week (24/7) that I wanted to mention, too. At least my Bed & Breakfast is a twenty-four hours/seven days a week (24/7) business. I cannot imagine being expected to be at my place twenty-four hours/seven days a week (24/7) all year-round. I mean, you all have to take vacations, right? You should be able to have an employee that takes over for you as long as somebody is there at night. My goodness. I have somebody there twenty-four hours/seven days a week (24/7) unless they go to the farmers' market, which is three (3) times a week. But I also go on vacation three (3) or four (4) times a year. That is my business and I know you all go on vacation too. You go away from your business. Anyway, I just wanted to continue with a couple of points. You have this all written out, so I am just going to say in the same January 21<sup>st</sup> Council Meeting, the County Attorney stated that "lawful" was the optimal word. In Section 8.17-10

in the 1987 CZO as well as many news articles, clearly explained what the criteria for lawful is for this purpose, the purpose of these uses. The seven (7) to nine (9) longstanding Bed & Breakfast and homestays who were never given the legal right to go before the Planning Commission before being sent into the Hearings Officer stage, are all lawful under the 1987 CZO, yet still finds that the Planning Department changed their interpretation of "lawful" only in the cases of the longstanding residential Bed & Breakfast and homestay operations. Is it legal to place a lawful business in a purgatorial state without due process until a year after such a notice with no prior notification or recognition of even the time limit of two hundred ten (210) days? There is a limit of two hundred ten (210) days from the time your permit is accepted until you are either denied or approved. If you are not within that period or if they do not perform within that period, the owner would get an automatic approval under the Rules and Regulations in Section 91. In the Zoning Department Appeals Handbook Section 20, page 7, this is a quote I found, "Generally, if equally convincing points are put forth by the zoning administrator and an individual affected by the interpretation, fairness dictates that the person most affected by the interpretation should prevail. In other words where two (2) interpretations are reasonably equal, the benefit of the doubt should be given to the property owner rather than the zoning administrator." My hope today is that you carefully think of the unintended consequences of the actions that are happening today and that have been happening for the last year and a half. Thank you.

Council Chair Rapozo: Thank you. Is there anyone else wishing to testify on this matter? You can come, yes.

Ms. Hoff: Hi Council, Lorna Hoff again. Due to both John's and my health, we had a little kind of mix-up with our attorney involving him thinking or whatever our application being pulled and now our application is back in again. That went in front of the Commission the other day, which they allowed us to be put back in again. Then, we are deferred for our hearing until November because of problems with John. Mr. Dahilig mentioned to the Commission that it is kind of like a third strike against us, and he mentioned that we were given a Notice of Violation, then a cease and desist, and then a fine of ten thousand dollars (\$10,000). I think this is what upsets John and I, is we were never given the Notice of Violation, ever. We were just given a cease and desist and they said...I took everything down. It actually took me over a year to get my website and everything down. I do not know even know where Yelp came from, but I finally got that off. False statements being made to the Commission or someone is just what upsets me. I think that is what upsets John, too. People are led to believe certain things and certain things did not happen. I think we would feel better if everything was...it is a great world if everybody tells the truth. Thank you.

Council Chair Rapozo: Thank you.

There being no further testimony, the meeting was called back to order, and proceeded as follow:

Council Chair Rapozo: Is there any further discussion? The motion is to refer this Bill back to the Committee May 11<sup>th</sup>, which is when the other Bill is scheduled to be heard. I am troubled by the testimony that we just heard, and I am not sure how we address that. I am assuming that...I do not know. No, it is not okay. It is not okay. I think it is something had that we need to look into. I do not follow the Planning Commission meetings on television, but I would assume that they have minutes. We are already back in, but we will chat right after the meeting. I do want to get some information. Anyway with that, is there any other discussion?

The motion to refer Bill No. 2609 to the May 11, 2016 Planning Committee Meeting was then put, and carried by a vote of 6:1 (*Councilmember Kagawa voting no*).

Council Chair Rapozo: Motion carried. That ends the official meeting for today. We do have an Executive Session. Let us take fifteen (15) minutes and report in Executive Session at 2:30 p.m. Hold on, BC. We have to actually get voted into Executive Session. Clerk, can you read the Executive Session posting please?

#### EXECUTIVE SESSION:

ES-846 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an Executive Session with the Council to provide the Council with a briefing regarding Puhi Metals Recycling Center issues and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Chock moved to convene in Executive Session for ES-846, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion? Councilmember Kaneshiro.

Councilmember Kaneshiro: Just real quick. I will be recusing myself from this Executive Session.

Council Chair Rapozo: Got it.

*(Councilmember Kaneshiro was noted as recused.)*

Council Chair Rapozo: Is there any further discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Seeing none, roll call.

The motion to convene in Executive Session for ES-846 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Chock, Hooser, Kagawa, Kuali'i, Yukimura, Rapozo	TOTAL – 6,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Kaneshiro	TOTAL – 1.

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) recused.

Council Chair Rapozo: Okay, that concludes today's meeting, BC.  
You can go. Thank you very much.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 2:15 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA  
County Clerk

:aa

(April 20, 2016)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2628), Relating to Revocable Permits in County Designated Rights-of-Way

Introduced by: ROSS KAGAWA

Amend Proposed Draft Bill (No. 2628) to correct technical typographical errors as follows:

1) Amend Section 3 to read as follows:

“SECTION 3. Chapter 18, Article 1, [Section 2] Section 18-1.2 of the Kauaʻi County Code 1987, as amended, is hereby amended as follows:

“Sec. 18-1.2 Restricted Uses.

The County Council may, if it deems necessary for the purpose of preserving the public health, safety and welfare, restrict the following uses of any road, street and highway under its jurisdiction by prohibiting:

(a) Use of a loud speaker or sound amplifier for projection of sound from any vehicle.

(b) Use by a commercial vehicle or by specific types of vehicles or by vehicle weight, load or size.

(c) Use for commercial, business or other income motivated purpose for private gain or charitable [purposes.] purposes, unless a revocable permit is issued by the Finance Director and approved by the County Engineer pursuant to Chapter 20, Article 5 of this code.

(d) Use for processions or assemblages.””

2) Amend Section 4 to read as follows:

“SECTION 4. Chapter 20, Article 5, [Section 2] Section 20-5.2 of the Kauaʻi County Code 1987, as amended, is hereby amended as follows:

“Sec. 20-5.2 Exceptions to Bidding Requirement.

The Finance Director may grant revocable permits approved by the County Attorney as to form and legality, without calling for public bids, when:

(a) The intended use does not conflict with use for immediate public purposes; and

(b) There is no reasonable alternative other than the use of public property; and

(c) The proposed use does not create a nuisance or unreasonably affect public health or welfare; and

(d) There is no conflicting request for use of the particular public [property; and] property.

[(e) The revocable permit shall be limited to a month-to-month basis or less.]””

3) Amend Section 5 to read as follows:

“SECTION 5. Chapter 20, Article 5, [Section 3] Section 20-5.3 of the Kaua‘i County Code 1987, as amended, is hereby amended as follows:

“Sec. 20-5.3 Rental.

(a) For use by nonprofit organizations or governmental agencies for public purposes, the rental shall be one dollar (\$1.00) per month. “Nonprofit organization” is defined to mean an association, corporation or other entity, organized and operated exclusively for religious, charitable, scientific, literary, cultural, educational, recreational or other nonprofit purposes, no part of the assets, income or earnings of which inures to the benefit of any individual or member thereof.

(b) For use by others, the rental shall be the fair market rental value as [jointly] established by the Finance Department [and the Department of Public Works], or at the option of the user, the rental shall be the fair market rental value as established by a disinterested appraiser paid for by the user and approved by the Finance Department.

(c) Improvements to be made by the user that will benefit the County after the permit expires may be considered in establishing the rent. However, improvements constructed shall be at the risk of the user and no damages or claims shall be payable to the user upon termination of the permit. The user shall execute an agreement with the County specifying the terms of the use of the property and any mitigation that may be required by any of the County’s agencies. For properties under the jurisdiction of the Department of Public Works, the County Engineer shall also review and approve the revocable permit.

(d) When bidding is not required pursuant to Chapter 20-5.2, a rental fee shall not be assessed for properties designated as County public rights-of-way.

(e) Each application for a revocable permit pursuant to this part shall be assessed an application fee of one hundred dollars (\$100.00), unless the applicant is the County of Kaua‘i.

(f) Revocable permits issued under this section shall not exceed a period of one year.””

(Material to be deleted is bracketed. New material to be added is underscored.)  
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